

The Planning Act 2008

OUTER DOWSING OFFSHORE WIND

Examining Authority's Report
of Findings and Conclusions
and

Recommendation to the Secretary of State for
Energy Security and Net Zero

Examining Authority

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10 JULY 2025

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OVERVIEW

File Ref: EN010130

The application, dated 19 March 2024, was made under section 37 of the Planning Act 2008 and was received in full by the Planning Inspectorate on that date.

The applicant is GT R4 Limited (Ltd), trading as Outer Dowsing Offshore Wind.

The application was accepted for Examination on 16 April 2024.

The Examination of the application began on 10 October 2024 and was completed on 10 April 2025.

The proposed development comprises:

- An offshore wind farm located approximately 54 km off the Lincolnshire coast in the southern North Sea, with a generating capacity of up to 1.5 GW.
- The construction of up to 100 wind turbine generators (WTGs), supported by up to four offshore substations.
- Use of High Voltage Alternating Current (HVAC) transmission technology, supported by up to two offshore reactive compensation platforms (ORCPs) to manage reactive power.
- Inter-array cables connecting the WTGs to the offshore substations, and up to four undersea export cables transmits electricity to landfall.
- The offshore export cables making landfall at Wolla Bank, south of Anderby Creek, Lincolnshire.
- Underground onshore cabling extending from Wolla Bank to a new substation at Surfleet Marsh, facilitating connection to the electricity transmission network.
- Further onshore cabling connecting the Surfleet Marsh substation to a proposed National Grid Electricity Transmission (NGET) substation located within a defined connection area near Bicker Fen.
- Temporary and permanent access roads, construction compounds, and cable logistics areas associated with the onshore works.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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**The Planning
Inspectorate** **ERRATA SHEET – Outer Dowsing Offshore Wind
EN020026**

**Examining authority's Report of Findings and Conclusions and
Recommendation to the Secretary of State for the Department of
Energy Security and Net Zero, dated 10 July 2025**

**Corrections agreed by the Examining Authority prior to a decision
being made**

Vol	PDF Page No.	Para	Error	Correction
	170	3.13.89	Missing comma	Insert comma between “..T.H. Clements & Son Ltd [RR-067]”, and “multiple IPs represented by Brown & Co LLP including J W Grant & Co [RR-033[.. – highlighted in red.
	230	3.17.32	Missing “O” in “on”	Insert the letter “O”, at the beginning of this sentence “n this basis, the applicant...”
	107	3.7.121	Missing full stop after “19m”	Insert full stop after “19m. As such...”
	99	3.7.71	Insert full stop at end of sentence	Insert full stop after “applicant” at end of sentence.
	99	3.7.71	“up” should be “on”	Replace “up with “on” of this sentence “based up the distance between them...”
	103 113 284	3.7.98 3.7.159 5.3.16	“NPS EN-1 paragraph 2.1.8 in terms of the early application”	The mitigation hierarchy is in NPS EN-3, not EN-1. It should read in all three paragraphs as follows: “NPS <i>EN-3</i> paragraph 2.1.8 in terms of the early application...”

1. INTRODUCTION

1.1. THE EXAMINATION AND REPORTING PROCESS

- 1.1.1. Examination under the Planning Act 2008 (PA2008) is primarily a written process, in which the Examining Authority (ExA) has regard to written material forming the application and arising from the examination.
- 1.1.2. The ExA's Recommendation comprises one part.
- 1.1.3. This Recommendation sets out the ExA's findings on the proposed development, and which is structured as follows:
- section 1 is this section, the introduction to the application
 - section 2 records the policy background in determining the proposed development
 - section 3 provides a commentary and conclusions in relation to the planning issues
 - section 4 sets out the findings and conclusions in relation to the Habitats Regulations Assessment (HRA)
 - section 5 sets out the balance of planning considerations arising from Sections 3 and 4 of the Recommendation and applies the tests of s104 of the PA2008
 - section 6 sets out the ExA examination of Land Rights proposals
 - section 7 considers the implications of the matters arising from the preceding sections for the Recommended Development Consent Order (rDCO)
 - section 8 summarises all relevant considerations and sets out the ExA's recommendation to the Secretary of State
 - appendix A – Examination timeline
 - appendix B – List of abbreviations
 - appendix C – Habitats Regulations Assessment
 - appendix D – Other legislation
 - appendix E – The Recommended DCO
 - appendix F - Compulsory acquisition, temporary possession, land and rights objections considered in written and oral processes
 - appendix G – The Examination Library
- 1.1.4. Appendix F comprises a list of compulsory acquisition (CA), temporary possession (TP), land and/or rights objections considered during the written and oral processes. It should be viewed alongside the applicant's Land Rights Tracker (LRT) [[REP6-081](#)]; this is discussed in more detail below and in section 6 of this Recommendation.
- 1.1.5. Appendix G comprises the Examination Library (EL). All documents and representations from interested parties (IPs) in the EL have a unique reference number, for example, [[APP-001](#)] which will be used throughout this Recommendation to allow the reader to access the source. The EL is hyperlinked, and when read alongside this Recommendation, will allow the Secretary of State for the Department of Energy Security and Net Zero (SoS) to easily access the document in question. The ExA will also refer to a particular document by its Deadline number.
- 1.1.6. This Recommendation does not contain extensive summaries of all documents and representations received, although full regard has been had to them and all important and relevant matters arising. Key written sources are set out further below.

1.2. BACKGROUND TO THE EXAMINATION

- 1.2.1. The application for the Outer Dowsing Offshore Wind project (the proposed development), Planning Inspectorate (the Inspectorate) reference **EN010130**, was submitted by GT R4 Ltd (trading as Outer Dowsing Offshore Wind) (the applicant) to the Inspectorate on 19 March 2024 under section (s) 31 of the PA2008 and accepted for examination under s55 of the PA2008 on 16 April 2024 [[PD-001](#)].
- 1.2.2. The legislative tests for whether the proposed development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State for Housing, Communities and Local Government (SoSHCLG) in their decision to accept the application for examination in accordance with s55 of the PA2008 [[PD-001](#)].
- 1.2.3. The proposed development is an offshore wind farm. The proposed development falls within s15(3) of PA2008 and meets the definition of an NSIP set out in s14(1) of the PA2008. As such, the proposed development requires development consent in accordance with s31 of PA2008.

1.3. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.3.1. On 26 April 2024, Rod MacArthur, Claire Megginson, Mark James, Gavin Jones and Gaurav Joshi were appointed as the ExA for the application under s61 and s65 of PA2008 [[PD-002](#)].

1.4. LOCATION OF THE PROPOSED DEVELOPMENT

- 1.4.1. The location of the proposed development is shown in the Onshore Location Plan [[APP-007](#)] (extract shown in Figure 1 below) and the Offshore Location Plan [[APP-008](#)] (extract shown in Figure 2 below), as well as in final versions of the Land Plans [[REP6-004](#)] and [[REP6-005](#)]. The onshore Order limits lie within East Lindsey District, South Holland District and Boston Borough administrative areas, within Lincolnshire and are wholly in England. The offshore Order limits extend eastwards from landfall at Wolla Bank to a wind turbine array area approximately 54km off the coast of Lincolnshire, in the southern North Sea.



Figure 1: Onshore Location Plan



Figure 2: Offshore Location Plan

Description of the proposed development

- 1.4.2. Chapter 3 of the Environmental Statement (ES) [\[REP5-009\]](#), alongside the applicant's Non-Technical Summary [\[REP5-007\]](#) set out a description of the proposed development. In summary, the application seeks the construction of an offshore generating station with a capacity of up to 1.5 gigawatts (GW). Comprising:
- The construction of up to 100 wind turbine generators (WTGs), with up to 4 offshore substations
 - High voltage alternating current (HVAC) transmission technology
 - The construction of inter-array cabling to connect the WTGs to the offshore substations, and up to 4 undersea export cabling to connect the turbines to the offshore substation(s) and from there to the landfall area at Wolla Bank
 - Up to 2 offshore reactive compensation platforms (ORCPs) to reduce the reactive power generated by the capacitance of the offshore export cable to maximise the amount of power delivered to the National Grid electricity transmission system
 - The construction of onshore cabling from Wolla Bank to Surfleet Marsh
 - The construction of an onshore substation on land at Surfleet Marsh
 - The construction of further onshore cabling from the onshore substation to a proposed National Grid (NGET) substation to be located close to the proposed development, in an area defined by the applicant as the 'connection area'
- 1.4.3. Further details of the proposal for these works, including the applicant's categorisation of each element into work numbers can be found in schedule 1 of the rDCO.
- 1.4.4. Figure 3 below is a Wireframe example illustration of the extent of the WTGs from a viewpoint in Chapel Six Marshes, close to the landfall point at Wolla Bank. It shows a number of existing offshore wind farms (OWFs) in black with the turbine blades of the proposed OWF visible in red, also noting the positioning and visibility of the

ORCPs. Figure 4 below shows the same view, but as a photomontage image. These images, and other Wireframes and photomontages are taken from ES Chapter 17 Seascape, Landscape and Visual Impact Assessment (SLVIA) [\[APP-107\]](#).

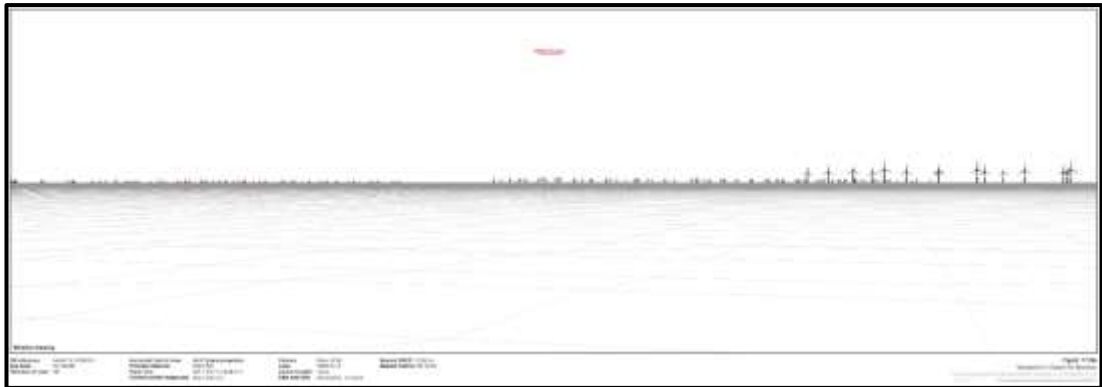


Figure 3: Wireframe view of the proposed development offshore, including ORCPs [\[APP-107\]](#).



Figure 4: Photomontage view of the proposed development offshore, including ORCPs [\[APP-107\]](#).

1.4.5.

Figure 5 below shows an indicative model of the proposed gas insulated switchgear (GIS) onshore substation (OnSS) and Figure 6 shows an indicative model of the proposed air insulated switchgear (AIS) OnSS. Both figures show the view from the A16 near Marsh Lane Junction (viewpoint 2), with 0 years growth of mitigation planting. These photomontages are taken from ES Chapter 28, Landscape and Visual Impact Assessment (LVIA) [\[APP-083\]](#).



Figure 5: Indicative model of proposed GIS OnSS from A16 near Marsh Lane junction
[\[APP-126\]](#)



Figure 6: Indicative model of proposed AIS OnSS from A16 near Marsh Lane junction
[\[APP-126\]](#)

1.5. THE EXAMINATION

Start of the Examination

- 1.5.1. The Preliminary Meeting (PM) took place on 10 October 2024 [\[EV2-003\]](#). The ExA's Procedural Decisions (PD) and the examination timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter dated 17 October 2024 [\[PD-011\]](#). The period for relevant representation (RR) ran from 02 May 2024 until 13 June 2024. A further RR period, which was required to notify affected persons who were missed during the initial period, ran from 26 June 2024 until 29 July 2024.
- 1.5.2. The examination began on 10 October 2024 and concluded on 10 April 2025. The principal components of and events around the examination can be seen in the Examination timeline at appendix A and are summarised below.

Procedural Decisions

- 1.5.3. The PDs taken by the ExA are recorded in the EL referenced [\[PD-\]](#). They detail the ExA's decisions relating to the procedure of the examination and did not bear on the ExA's consideration of the planning merits of the proposed development. All were broadly discharged as intended and no further reference is made to them in this Recommendation.

Statements of Common Ground

- 1.5.4. By the end of the examination, the following bodies had concluded and signed Statements of Common Ground (SoCGs) with the applicant:
- Anglian Water Services [\[REP5-132\]](#)
 - The UK Chamber of Shipping [\[REP5-138\]](#)
 - The Environment Agency [\[REP6-085\]](#)
 - Historic England [\[REP5-134\]](#)
 - Lincolnshire County Council [\[REP5-135\]](#)
 - Boston Borough Council, East Lindsey District Council and South Holland District Council [\[REP5-136\]](#)
 - The Maritime and Coastguard Agency [\[REP5-137\]](#)
 - The Marine Management Organisation [\[REP6-097\]](#)
 - National Grid Electricity Transmission [\[REP6-096\]](#)
 - The Royal Society for the Protection of Birds [\[REP6-099\]](#)
 - Trinity House [\[REP5-140\]](#)
- 1.5.5. The SoCGs with the following bodies remained incomplete and unsigned at the end of the examination:
- The Defence Infrastructure Organisation [\[REP6-098\]](#)
 - Natural England [\[REP6-087\]](#)
- 1.5.6. The signed SoCGs have been taken fully into account by the ExA in all relevant sections of this report. The weight (if any) to be afforded to unsigned SoCGs in particular contexts is considered in the relevant sections of this Recommendation.

Local Impact Reports

- 1.5.7. Local impact reports (LIR) were received by the ExA from the following local authorities:
- East Lindsey District Council, Boston Borough Council and South Holland District Council (as a joint LIR on behalf of all three district councils) [\[REP1-052\]](#)
 - Lincolnshire County Council [\[REP1-053\]](#)

Written Questions

- 1.5.8. The ExA asked 2 rounds of written questions:
- The ExA's Written Questions (ExQ1) [\[PD-013\]](#)
 - The ExA's Further Written Questions (ExQ2) [\[PD-020\]](#)
- In addition, questions in relation to Habitats Regulations Assessment matters were asked in the ExA's Report on the Implications for European Sites [\[PD-022\]](#).
- 1.5.9. The ExA made the following requests for further information and comments under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010:
- Rule 17 - The Examining Authority's request for further information – 3 July 2024 [\[PD-005\]](#)
 - Rule 9 and Rule 17 Letter – Notification of Procedural Decision and Request for Information – 31 July 2024 [\[PD-006\]](#)
 - Rule 17 Letter - Request for further information – 5 March 2025 [\[PD-027\]](#)
 - Rule 17 Letter - Request for further information – 21 March 2025 [\[PD-028\]](#)

Site Inspections

- 1.5.10. The ExA carried out an unaccompanied site inspection (USI) held on Wednesday 22 [\[EV1-001\]](#) and Thursday 23 [\[EV1-002\]](#) May 2024 and an accompanied site inspection (ASI) held on Tuesday 11 February 2025 [\[EV9-001\]](#).

Hearings

- 1.5.11. Hearings were held under s 91 PA2008 into specific issues (ISHs), under s 92 PA2008 into the compulsory acquisition of land and rights (CAHs) and under s 93 PA2008 providing for open floor hearings (OFHs).

ISH

- 1.5.12. The following ISHs were held:

- ISH1 Part 1 - 4 December 2024 [\[EV5-002\]](#)
- ISH1 Part 2 - 4 December 2024 [\[EV5-004\]](#)
- ISH1 Part 3 - 4 December 2024 [\[EV5-006\]](#)
- ISH2 - 5 December 2024 [\[EV6-002\]](#)
- ISH3 Part 1 - 5 December 2024 [\[EV7-002\]](#)
- ISH3 Part 2 - 5 December 2024 [\[EV7-004\]](#)
- ISH3 Part 3 - 5 December 2024 [\[EV7-006\]](#)
- ISH3 Part 4 - 5 December 2024 [\[EV7-008\]](#)
- ISH5 Part 1 - 12 February 2025 [\[EV10-002\]](#)
- ISH5 Part 2 - 12 February 2025 [\[EV10-004\]](#)
- ISH5 Part 3 - 12 February 2025 [\[EV10-006\]](#)
- ISH5 Part 4 - 12 February 2025 [\[EV10-008\]](#)
- ISH6 Part 1 - 13 February 2025 [\[EV11-003\]](#)
- ISH6 Part 2 - 13 February 2025 [\[EV11-005\]](#)
- ISH6 Part 3 - 13 February 2025 [\[EV11-007\]](#)
- ISH6 Part 4 - 13 February 2025 [\[EV11-009\]](#)
- ISH8 Part 1 - 19 March 2025 [\[EV13-002\]](#)
- ISH8 Part 2 - 19 March 2025 [\[EV13-004\]](#)
- ISH8 Part 3 - 19 March 2025 [\[EV13-006\]](#)

CAH

- 1.5.13. The following CAHs were held:

- CAH1 Part 1 - 3 December 2024 [\[EV4-002\]](#)
- CAH1 Part 2 - 3 December 2024 [\[EV4-004\]](#)
- CAH1 Part 3 - 3 December 2024 [\[EV4-006\]](#)
- CAH2 Part 1 - 19 March 2025 [\[EV14-002\]](#)
- CAH2 Part 2 - 19 March 2025 [\[EV14-004\]](#)

OFH

- 1.5.14. An OFH was held on 10 October 2024 [\[EV3-001\]](#).

1.6. CHANGES TO THE APPLICATION

- 1.6.1. Changes to the key application documents, including the wording of the dDCO, were submitted and updated during the examination. The changes sought to address points raised by interested parties (IPs) and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the examination.

- 1.6.2. The applicant's changes to the application documents, together with any additional information submitted, are detailed in the applicant's Guide to the Application submitted at deadline (D) 6 [\[REP6-002\]](#). This provides a guide to all documents submitted as part of the application and was updated at each deadline when new or revised documents were submitted. It provides a full record of all documentation submitted into the examination.

Change Requests

- 1.6.3. The ExA issued a procedural decision [\[PD-007\]](#) following the submission of documents by the applicant in response to the section 51 advice [\[AS1-001\]](#) to [\[AS1-109\]](#). The ExA considered that the applicant had submitted information that may constitute a change to the application and requested that the applicant therefore submit a change notification.
- 1.6.4. The applicant submitted a Notification of Intention to Submit a Change Request "*Change Notification*" on 29 August 2024 [\[AS-021\]](#). Table 1 [\[AS-021\]](#) sets out the documents comprising the change notification.
- 1.6.5. In its Change Notification, the applicant described the change as:
- modifications to the land plots adjacent to Mean Low Water Springs (MLWS) and Mean High Water Springs (MHWS) resulting from updated Ordnance Survey mapping. Specifically, land plot 01-003 and portions of land within plot 01-002 have been excluded from the Order limits, leading to a reduction in the Order limits
 - three land areas have been incorporated into land plot 01-002 because the MLWS mark is now seaward of the MLWS mark presented in the application, resulting in permanent rights being sought over additional onshore land within the Order limits
- 1.6.6. The ExA's response to the Change Notification [\[PD-008\]](#) advised that the applicant consult with Chapel St Leonards Parish Council and the Marine Management Organisation (MMO) for the following reasons:
- Chapel St Leonards Parish Council – to clarify that the Parish Council agrees that it has no interest in the land identified as plot 01-002
 - the ExA notes that some land within plot 01-002 is now identified by the applicant as being seaward of MLWS and that, therefore, in accordance with s42(1)(aa) of the PA2008, the MMO should be consulted
- 1.6.7. The ExA then issued a further procedural decision [\[PD-010\]](#) following submissions received from the applicant at the procedural deadline on 19 September 2024. The submissions included:
- documents prepared in support of the introduction of the offshore restricted build area (ORBA) and revision to the offshore export cable corridor (ECC)
 - documents updated to (i) reflect minor changes due to small reductions to the areas of land required and amendments to the rights sought, and (ii) account for recently identified proposed public rights of way (PRoWs) and an additional pipeline crossing
 - new or updated documents in response to comments made by IPs in relevant representations (RRs)
- 1.6.8. The ExA noted [\[PD-010\]](#) that these documents contained new information that may constitute a change to the application. The ExA confirmed that it had not made a

decision to accept the changes set out by the applicant. The ExA requested that the applicant provide all of the information that relates to any changes that it wished to make, collated and summarised within a change notification.

- 1.6.9. Additionally, the ExA took the view [\[PD-010\]](#) that by submitting information which may be subject to a change request alongside revisions to current application documents and new information in response to comments from IPs, the applicant had introduced an unwelcome level of complexity. The ExA therefore made the procedural decision to request that the applicant submit a schedule detailing which of the documents submitted refer, either directly or indirectly, to any of the proposed changes and which would therefore represent either new evidence or revisions to existing evidence submitted as part of the original application if accepted by the ExA following a formal change request by the applicant.
- 1.6.10. The applicant's response to the procedural decision [\[AS-025\]](#) stated that the applicant's overarching view was that the information provided does not introduce a development scenario which could not have been built out in terms of the application documents (as submitted in March 2024). Instead, the applicant stated that it sought to refine the proposals early by removing flexibility and optionality at this stage rather than post consent.
- 1.6.11. Nevertheless, appendix 1 of the applicant's response [\[AS-025\]](#) summarised all changes that the applicant had proposed to make to the application information, including the changes already notified. Appendix 2 of [\[AS-025\]](#) then set out the information required as part of the change notification. The applicant considered that its proposed changes to account for new rights of way set out within table 1.1 in appendix 2 would result in minor changes to the original proposed development. The applicant therefore asked the ExA to treat the submission as a change notification in respect of these particular changes.
- 1.6.12. Furthermore, the applicant stated [\[AS-025\]](#) that should the ExA decide, contrary to the applicant's interpretation, that any of the other changes proposed and set out in appendices 1 and 2 should be considered a change to the application and considered under the guidance, the applicant asked that the submission [\[AS-025\]](#) be treated as a change notification in respect of the relevant change(s).
- 1.6.13. Annex B of the ExA's Rule 8 letter [\[PD-011\]](#) responded to [\[AS-025\]](#). The ExA noted that any proposed amendments to the Order limits are substantive matters which would constitute a change to the original application and advised the applicant to submit a change request, or requests, which identify all proposed changes to the Order limits.
- 1.6.14. Additionally, the ExA agreed [\[PD-011\]](#) that the following amendments to the application as set out in appendix 1 of [\[AS-025\]](#) should not be subject to a formal change request:
- minor onshore works number amendments – change from landscaping works to drainage works
 - reductions in the CA rights sought from freehold acquisition to acquisition of permanent rights in respect of certain plots
 - changes to documents to account for an additional pipeline crossing
- 1.6.15. Furthermore, the ExA advised that the applicant should make a formal change request for the following proposed changes:

- changes to documents to account for 5 recently-identified PRowS, the proposed diversions to 3 of those 5 PRowS
- the introduction of the ORBA
- revision to the offshore ECC
- onshore Order limit reductions – removal of unnecessary plots

1.6.16. Following the ExA's advice [\[PD-011\]](#), the applicant submitted a formal change request at D1 [\[REP1-039\]](#) as follows:

- change 1: the change resulting from updates to the Ordnance Survey MasterMap data which identified changes to the MHWS and MLWS dataset – notified in [\[AS-021\]](#)
- change 2: revision to the offshore ECC – notified in [\[AS-025\]](#)
- change 3: onshore Order limit reductions – removal of unnecessary plots – notified in [\[AS-021\]](#) and [\[AS-025\]](#)

1.6.17. The ExA's Rule 9 and 13 letter [\[PD-012\]](#) responded to the formal change request [\[REP1-039\]](#) and agreed that:

- in the case of change 1, the applicant had secured the necessary consent from the Crown Estate
- in the cases of changes 2 and 3, the changes did not involve a request to include additional compulsory acquisition powers
- in these cases, the procedures in regulations 5 to 19 of the CA Regulations did not apply
- the ExA is satisfied that the proposed changes could be properly examined within the timeframe of the examination and therefore accepted the applicant's proposed changes as set out in the change request

1.6.18. In addition, the ExA noted [\[PD-012\]](#) the applicant's change notification dated 24 October 2024 [\[REP1-038\]](#) for the following changes:

- the introduction of a new article of the dDCO (reference 3.1), which disapplies the provisions of various, largely historic, local Acts, Orders and byelaws which confer various rights and powers on the Black Sluice Internal Drainage Board (IDB), insofar as these are inconsistent with the provisions of the dDCO
- the introduction of protective provisions for the benefit of Port of Boston Limited, as statutory harbour authority, and of a new article of the dDCO, which disapplies the provisions of various, largely historic, local Acts, Orders and byelaws which confer various rights and powers on the harbour authority, insofar as these are inconsistent with the terms of the protective provisions
- amendments to article 19 (Removal of Human Remains) of the dDCO to provide a different procedure to be followed where any human remains were interred more than 100 years ago
- the addition of a further condition to each of the deemed marine licences at Schedules 12, 13, 14 and 15 of the dDCO (reference 3.1) (deemed marine licences in respect of the proposed artificial nesting structures) (the ANS DMLs) in response to a request from the Ministry of Defence that a condition requiring the submission of sufficient data to ensure that the development is appropriately and accurately charted is included in each of the ANS DMLs. The proposed condition would be similar in nature to Part 2, condition 10 of Schedules 10 and 11 of the dDCO.

1.6.19. The ExA welcomed [\[PD-012\]](#) the applicant's approach of pre-emptively highlighting its proposed changes in this manner and took the view that the proposed changes set out in its Change Notification dated 24 October 2024 [\[REP1-038\]](#) all fall within

the broad description of changes to the dDCO as articles are reviewed, drafting is improved, or requirements are developed and that they are not such substantial changes that they would warrant a formal change request.

- 1.6.20. Also following the ExA's advice [\[PD-011\]](#), the applicant submitted a formal change request at deadline 2 (D2) 27 November 2024 [\[REP2-065\]](#) for the introduction of the ORBA. The ExA responded to the change request in its Rule 9 dated 3 December 2024 [\[PD-015\]](#) and agreed with the applicant's conclusion that the proposed change would not result in the proposed development being materially different to that originally submitted and that the procedures in regulations 5 to 19 of the CA Regulations do not apply. The ExA noted that the applicant had instigated this change as a further mitigation measure and was satisfied that the proposed change could be examined within the timeframe of the current examination. The ExA therefore accepted the applicant's proposed change as set out in the Change Request.
- 1.6.21. Also at D2, the applicant submitted a Change Notification, dated 27 November 2024 [\[REP2-064\]](#) to seek approval to reduce the lead-in period for the provision of artificial nesting structure(s) for kittiwake. The ExA, in its Rule 9 response [\[PD-016\]](#) concluded that this amendment to the dDCO would require a formal change request.
- 1.6.22. The applicant submitted a further change notification at D3 on 13 December 2024 [\[REP3-050\]](#) for the following:
- changes to the maximum design parameters of the ORCPs
 - amendments to the dDCO based on the applicant's review of The Management of Hedgerows (England) Regulations 2024
 - amendments to the dDCO to include within Schedule 17, Part 2 a further important hedgerow under the Hedgerow Regulations 1997 which may be required to be removed
- 1.6.23. The ExA considered in its response dated 20 December 2024 [\[PD-019\]](#) that the changes to the maximum design parameters of the ORCPs would represent a change to the application. Furthermore, in relation to points 2 and 3, the ExA considered [\[PD-019\]](#) that these proposed changes fall within the broad description of changes to the draft DCO as articles are reviewed, drafting is improved, or requirements are developed and that they are not such substantial changes that they would warrant a formal Change Request.
- 1.6.24. The applicant submitted a formal change request at D4 on 3 February 2025 [\[REP4-124\]](#) for the following changes to the application, which it notified the ExA of at D2 [\[REP2-064\]](#) and D3 [\[REP3-050\]](#):
- change 1: change in the compensation provisions in Part 1 of Schedule 22 of the dDCO to reduce the number of kittiwake breeding seasons which must elapse between installation of the ANS and operation of the turbines from 3 full breeding seasons to 2
 - change 2: changes to the maximum design parameters of the ORCPs to reduce the maximum height of the ORCPs, including a reduction in the height of the ORCPs to 59.2 meters (m) above lowest astronomical tide (LAT), with any mast or antenna located on the ORCPs to be a maximum height of 79.2m above LAT
- 1.6.25. The ExA in its response dated 11 February 2025 [\[PD-022\]](#) agreed with the applicant's conclusion that the proposed changes would not result in the proposed development being materially different to that originally submitted and that the

procedures in regulations 5 to 19 of the CA Regulations do not apply. The ExA was satisfied that the proposed changes could be examined within the timeframe of the examination. The ExA therefore accepted the applicant's proposed changes as set out in the Change Request. The ExA also accepted into its examination the documents submitted alongside this change request which incorporate the proposed changes into the dDCO.

1.6.26. In addition to this change request, the applicant also notified the ExA of its intention to make further changes to its application [\[REP4-123\]](#). These are described by the applicant as follows:

- the removal of the proposed temporary closure and diversion of a section of PRow Crof/276/2, replaced with an open managed crossing
- the removal of the proposed temporary closure and diversion of a section of PRow Crof/276/3, replaced with an open managed crossing
- the reduction in the length of the proposed diversion of a section of PRow Crof/276/4

1.6.27. The ExA took the view [\[PD-022\]](#) that these proposed changes fall within the broad description of changes to the draft DCO as articles are reviewed, drafting is improved, or requirements are developed and that they are not such substantial changes that they would warrant a formal Change Request.

1.6.28. The applicant submitted a further change notification dated 20 February 2025 [\[AS-032\]](#) that related to 5 potential amendments to the application, namely:

- change 1: a commitment to the installation of removeable cable protection on defined areas of supporting habitat for *Sabellaria spinulosa* reef within the Inner Dowsing, Race Bank and North Ridge Special Area of Conservation (IDRBNR SAC) as further mitigation for the impacts of the proposed development on the IDRBNR SAC
- change 2: narrowing the options that may be pursued as compensation measures for impacts on the sandbank and biogenic reef features of the IDRBNR SAC
- change 3: removal of the option to install gravity base structure (GBS) foundations for the ORCPs to reduce the maximum design scenario for marine physical processes effects
- change 4: the introduction of a seasonal restriction for construction works within the Greater Wash Special Protection Area (SPA) to further mitigate impacts on overwintering red-throated diver
- change 5: the introduction of a temporal piling restriction for the protection of herring during the spawning season, covering defined areas within the array area and the northern ANS

1.6.29. For changes 1 to 4 the ExA took the view in its Rule 9 response dated 25 February 2025 [\[PD-024\]](#) that these changes fall within the broad description of revised or further information submitted in response to matters raised by the ExA and IPs during the examination and that they are not such substantial changes that they would warrant a formal change request.

1.6.30. For change 5 the ExA noted that the applicant stated that: *"In addition to the above four changes, the Applicant is considering the potential introduction of piling restrictions for the protection of herring during the spawning season ..."*. The applicant had not set out how this proposed change would be effected, but that it would submit this change at deadline 5 (or earlier if possible). However, based on the information that the applicant had set out in its Change Notification the ExA's in-

principle view was that, should it be proposed, change 5 would not require the submission of a formal change request.



Figure 7 – Overview of proposed development offshore following ORBA change request and removal of northern ECC route

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

- 1.7.1. By the end of the examination, the applicant had entered into a series of side agreements and obligations which are set out in The Applicant's planning obligations and side agreements tracker [\[REP6-083\]](#). These undertakings, obligations and agreements (other than unsigned or incomplete ones) have been taken fully into account by the ExA in all relevant sections of this Recommendation.

S106 Agreements

- 1.7.2. The Applicant's planning obligations and side agreements tracker [\[REP6-083\]](#) notes that at D6, which was the final examination deadline, a signed s106 agreement had not been completed. However, the applicant subsequently submitted a signed s106 agreement to the examination on 10 April 2025, before the close of the examination. The ExA exercised its discretion to accept this as an additional submission [\[AS-040\]](#).

1.8. OTHER CONSENTS

- 1.8.1. In addition to the consents required under the PA2008, the applicant would require other consents to construct, operate and maintain the proposed development. These are identified in the applicant's Other Consents and Licences document [\[AS1-027\]](#)

1.9. STRUCTURE OF THIS REPORT

- 1.9.1. The structure of the remainder of this report is as follows:

- [Chapter 2](#) identifies how the application is to be determined and summaries the key legislation and policy context that applies to the decision.
- [Chapter 3](#) sets out the findings and conclusions in relation to the individual planning issues that arose from the application and during the examination.
- [Chapter 4](#) summarises considerations arising from HRA.
- [Chapter 5](#) sets out the balance of planning considerations arising from chapters 2, 3 and 4 in the light of important and relevant factual, legal and policy considerations.
- [Chapter 6](#) sets out the ExA's examination of land rights and related matters.
- [Chapter 7](#) considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- [Chapter 8](#) summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

- 1.9.2. This report is supported by the following appendices:

- [appendix A](#) – Reference Tables.
- [appendix B](#) – List of Abbreviations.
- [appendix C](#) – Habitats Regulations Assessment.
- [appendix D](#) – Other Legislation and Policies
- [appendix E](#) – The Recommended DCO
- [appendix F](#) – Compulsory Acquisition, Temporary Possession, Land and Rights Objections Considered in Written and Oral Processes
- [appendix G](#) – The Examination Library

2. HOW THE APPLICATION IS DETERMINED

2.1. INTRODUCTION

This chapter identifies the key legislation, policy and Local Impact Reports (LIRs) that the Examining Authority's (ExA) recommendations have taken into account.

2.2. LEGISLATION AND POLICY

- 2.2.1. This section identifies the key legislation and policy that the ExA considers to be important and relevant to its findings and recommendations to the Secretary of State for Energy Security and Net Zero (SoS). More detail is provided in appendix D to this Recommendation.

Planning Act 2008

- 2.2.2. The Planning Act 2008 (PA2008) provides a different basis for decision-making for Nationally Significant Infrastructure Project (NSIP) applications where a relevant National Policy Statement (NPS) has effect (section (s) 104) from that where no NPS has effect (s105). Since NPSs for energy have effect in relation to development that is the subject of this application, the ExA considers that the application is to be assessed against s104 of the PA2008.

- 2.2.3. Section 104(2) of the PA2008 sets out the matters to which the SoS must have regard when making its decision. These include:

- any relevant NPS
- any duly submitted Local Impact Report
- any matters prescribed in relation to the development
- any other matters the SoS thinks are both important and relevant to the decision

- 2.2.4. Section 104(3) of the PA2008 requires the SoS to decide the application in accordance with any relevant NPS that has effect in relation to this application, subject to the exceptions in s104(4) to (8) as follows:

- where deciding the application in accordance with any relevant NPS would lead to the UK being in breach of any of its international obligations
- where deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on her or him by or under any enactment
- where deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment
- where the adverse impact of the proposed development would outweigh its benefits; and /or
- where any condition prescribed for deciding an application otherwise than in accordance with a NPS is met

- 2.2.5. This Recommendation sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying s104 of the PA2008.

Other Legislation

- 2.2.6. Relevant secondary legislation to the PA2008 and which the ExA refers to throughout this Recommendation include:

- Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations).
- The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR).
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations).

Climate Change Act 2008

- 2.2.7. The Climate Change Act 2008 (CCA2008) establishes statutory climate change projections and carbon budgets. A 2019 revision to the Act sets a target of achieving 'net-zero' emissions by 2050. The target in the CCA2008 was substantively amended from 80% of baseline emissions by 2050 to 100% reduction (net zero) emissions by the CCA2008 (2050 Target Amendment) Order 2019. The sixth carbon budget for the next period to 2037 was published on 9 December 2020.

Marine and Coastal Access Act 2009

- 2.2.8. The Marine and Coastal Access Act 2009 (MCAA2009) introduced the production of marine plans and designation of Marine Conservation Zones (MCZs) in UK waters, as well as establishing the Marine Management Organisation (MMO). The primary aim of MCZs is to deliver the government's vision for an 'ecologically coherent network of Marine Protected Areas (MPAs)' across the UK and to ensure the health of the wider UK marine environment. NPS EN-1 states that decision-makers are bound by the duties imposed by sections 125 and 126 of the MCAA2009.
- 2.2.9. Section 125 of MCAA2009 requires all public authorities to exercise their functions in a manner to best further (or, if not possible, least hinder) the conservation objectives of a MCZ. Section 126 also requires them to consider the effect of proposed activities on a MCZ before giving authorisation and imposes restrictions on activities that may have a significant risk of hindering its conservation objectives.
- 2.2.10. Additionally, the UK Marine Policy Statement 2011 requires decision-makers to take account of how developments will impact on the aim to halt biodiversity loss and the legal obligations relating to all MPAs, including MCZs.
- 2.2.11. Relevant matters are reported throughout this Recommendation.

Equality Act 2010

- 2.2.12. S149 of the Equality Act 2010 (EA2010) establishes a duty - the Public Sector Equality Duty (PSED) - to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable to the ExA in the conduct of this examination and reporting and to the SoS in decision-making. The ExA had particular regard to the PSED in terms of holding virtual meetings, producing guidance and holding those meetings, ensuring participants were provided with hard copy correspondence, where requested, and in its conduct of site inspections to ensure full appreciation of the potential impacts of the proposed development on persons with protected characteristics.

Human Rights Act 1998

- 2.2.13. The assessment of the planning merits of the proposed development and the CA of land can engage various relevant articles under the Human Rights Act 1998. The ExA has had regard to them together with the implications in respect to CA in section 6 of this Recommendation.

Conservation of Habitats and Species Regulations 2017 (as amended)

- 2.2.14. The SoS is the competent authority for the purposes of The Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). The Habitats Regulations were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

2.3. NATIONAL POLICY STATEMENTS

- 2.3.1. NPSs set out government policy on different types of national infrastructure development. Having regard to the purposes of s104(2)(a) of the PA2008, the ExA considers that the following NPSs are relevant to the application:

- EN-1 Overarching National Policy Statement for Energy
- EN-3 National Policy Statement for Renewable Energy Infrastructure
- EN-5 Electricity Networks Infrastructure

- 2.3.2. These NPSs form the primary policy context for this examination. They were all published in November 2023 and came into force from 17 January 2024. This Recommendation assesses the extent to which the proposed development accords with them.

Overarching National Policy Statement for Energy (NPS EN-1)

- 2.3.3. NPS EN-1 (November 2023) sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs. All other energy NPSs sit under the policy framework provided by this NPS. It provides the primary basis for determining if development consent should be granted. All other energy NPSs are considered together with this NPS.
- 2.3.4. NPS EN-1, at paragraph 1.6.3, states that any emerging draft NPSs (or those designated but not yet having effect) are potentially capable of being important and relevant considerations in the decision-making process. The extent to which they are relevant is a matter for the relevant Secretary of State to consider within the framework of the PA2008 and with regard to the specific circumstances of each Development Consent Order (DCO) application.
- 2.3.5. Section 4.2 of NPS EN-1 establishes the principle of a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure. Low carbon infrastructure for the purposes of this policy includes, amongst other things, offshore renewable electricity generation such as offshore wind farms (OWFs) and all electricity grid infrastructure in scope of NPS EN-5 such as power lines and associated substations. NPS EN-1 states that CNP infrastructure benefits from a presumption in favour of consent, subject to several exceptions.

National Policy Statement for Renewable Energy Infrastructure (NPS EN-3)

- 2.3.6. NPS EN-3 provides policy specific to major renewable energy infrastructure, including OWFs. It sets out the assessment criteria for offshore wind applications, which include the consideration of biodiversity, ecology and habitats, marine physical and historic environment, commercial fisheries, navigation and shipping, Habitats Regulation Assessment, climate change resilience and good design are also articulated.

National Policy Statement for Electricity Networks (NPS EN-5)

- 2.3.7. NPS EN-5 sets out policy relevant to electricity transmission and distribution systems. It provides a framework of technology-specific impacts to be considered for electricity networks infrastructure including substations and overhead lines. Assessment criteria specific to electricity networks development include the consideration of effects relating to biodiversity and geological conservation, landscape and visual, noise and vibration and Electric and Magnetic Fields (EMFs). NPS EN-5 also supports the principle of achieving coordinated approaches to delivering offshore and onshore electricity transmission to minimise environmental, community and other impacts.

2.4. OTHER NATIONAL POLICY

- 2.4.1. Other important and relevant government policy has been taken into account by the ExA, including the following:

The National Infrastructure Strategy

- 2.4.2. The National Infrastructure Strategy (NIS) (November 2020) sets out the government's plans to transform the UK's infrastructure networks. It is based around three central objectives:

- Economic recovery.
- Levelling up and strengthening the Union.
- Meeting the UK's net zero emissions target by 2050.

- 2.4.3. The NIS states that the government will back new green growth clusters including offshore wind with significant investment, and as part of the government's decarbonisation agenda, it will build the UK's capability in new green industries with infrastructure investment in offshore wind capacity to reach 40 gigawatts (GW) by 2030.

The National Planning Policy Framework

- 2.4.4. The National Planning Policy Framework (NPPF) was adopted in December 2023. The NPPF, and the accompanying Planning Practice Guidance (PPG) set out the government's planning policies for England and how these are expected to be applied.
- 2.4.5. Paragraph 5 of the NPPF states that it does not contain specific policies for NSIPs as these are determined in accordance with the decision-making framework set out in the PA2008 and the relevant NPSSs, but the NPPF is an important and relevant consideration on decision-making for this application. Paragraphs 7 and 8 state that the government's approach to achieving sustainable development means that the planning system has three overarching objectives, these being economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
- 2.4.6. Both the NPPF and the PPG are capable of being important and relevant considerations in decisions on Nationally Significant Infrastructure Projects (NSIPs), but only to the extent where it is relevant to that proposed development.
- 2.4.7. Other relevant government policy has been taken into account by the ExA, including the following:

- Net Zero: The UK's Contribution to Stopping Global Warming Emissions.
- Ten Point Plan for a Green Industrial Revolution.
- Energy White Paper: Powering our Net Zero Future.
- Industrial Decarbonisation Strategy (HM Government, 2021)
- Net Zero Strategy: Build Back Greener
- British Energy Security Strategy (2022)
- Powering up Britain (the Department for Energy Security and Net Zero, 2023)
- Clean Power 2030 Action Plan (2024).

2.4.8. Table 1 of appendix D provides a list of policies that are of relevance to the proposed development. Some of these policies, where relevant, are also discussed in more detail in Chapter 3 of this Recommendation.

2.5. LOCAL IMPACT REPORTS

2.5.1. LIRs were submitted at deadline 1 (D1) from the following local authorities:

- East Lindsey District Council, Boston Borough Council and South Holland District Council (as a combined LIR on behalf of all three district councils) [\[REP1-052\]](#)
- Lincolnshire County Council [\[REP1-053\]](#).

2.5.2. The submitted LIRs state that local planning policies support the proposed development in principle and cover the following issues:

Combined District Councils

- Planning policy
- Air quality and emissions
- Biodiversity and geological conservation
- Flood risk
- Historic environment
- Landscape and visual
- Noise and vibration
- Socio-economic impacts
- Traffic and transport
- Waste management
- Water quality and resources

Lincolnshire County Council

- Planning policy
- Principle of development
- Ecology
- Landscape
- Highways and transportation
- Public Rights of Way
- Flood risk, drainage and surface water
- Minerals and waste
- Cultural heritage and archaeology
- Socio-economics, land use and agriculture
- Health and fire safety
- Section 106

2.5.3. LIR content has been considered through the examination and in this Recommendation. It must be considered during the decision by the SoS pursuant to PA2008 s104(2)(b).

- 2.5.4. The issues raised are considered in further detail in relation to relevant planning issues in chapter 3 of this Recommendation.

2.6. ENVIRONMENTAL IMPACT ASSESSMENT

- 2.6.1. The applicant provided a notification under Regulation 8(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) of its intention to provide an Environmental Statement (ES). Therefore, in accordance with regulation 6(2)(a) of the EIA Regulations, the ExA determined that the proposed development was EIA development.
- 2.6.2. On 1 August 2022, the applicant submitted a Scoping Report to the SoS under Regulation 10 of the EIA Regulations in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion) [[APP-034](#)].
- 2.6.3. On 9 September 2022, the Planning Inspectorate provided a Scoping Opinion [[APP-034](#)] and [[APP-035](#)].
- 2.6.4. Overall, the ExA considers that the ES, as supplemented with additional information during the examination, is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.
- 2.6.5. The ExA considered that changes to the documentation, comprising the ES during the examination, together with the change requests (see chapter 1.6 of this Recommendation) did not individually or cumulatively undermine the scope and assessment of the ES. Chapter 3 of this Recommendation will summarise and consider the environmental effects under each topic section.

2.7. HABITATS REGULATIONS ASSESSMENT

- 2.7.1. The SoS is the competent authority for the purposes of The Habitats Regulations. The Habitats Regulations were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
- 2.7.2. The proposed development is one that has been identified as giving rise to the potential for likely significant effects (LSE) on European sites and hence is subject to a Habitats Regulations Assessment (HRA).
- 2.7.3. As is the convention and to inform SoS decisions prepared under the PA2008, a separate record of considerations relevant to HRA has been set out in appendix C of this Recommendation, a summary of which can be found in chapter 4.

2.8. TRANSBOUNDARY EFFECTS

- 2.8.1. Regulation 32 of the EIA Regulations 2017 concerns the likely significant effects of a development on the environment of a European Economic Area (EEA) state. The Regulation 32 duty is an ongoing duty.
- 2.8.2. The applicant conducted a screening exercise for transboundary effects within appendix A of its Scoping Report [[APP-034](#)] which identified a number of transboundary impacts on European Economic Area (EEA) states for assessment.
- 2.8.3. The Planning Inspectorate published a transboundary screening following the adoption of the scoping opinion on 9 September 2022 [[APP-035](#)], which identified potential transboundary effects on France, Germany, Denmark, Sweden, Belgium,

Norway, Iceland and the Netherlands. Following the acceptance of the application, the transboundary screening was updated [\[OD-002\]](#).

- 2.8.4. The Danish Environmental Protection Agency provided a relevant representation [\[RR-019\]](#) in which it requested a reduction in the northern extent of the array to enable a clear shipping route to the River Humber for its member shipping company, DFDS. In [\[PD1-071\]](#) the applicant confirmed that it had held further consultation with the Chamber of Shipping in relation to the introduction of the Offshore Restricted Build Area. The applicant reports that following meetings with the Chamber of Shipping, it had confirmed that DFDS had “*no issues and find the changes positive*” [\[PD1-081\]](#). No other comments were received on this matter.
- 2.8.5. No representations have been received on transboundary matters in relation to non-UK European sites in EEA states during the course of the examination and the ExA is satisfied on the basis of the information in relation to transboundary matters that no LSE will arise as a result of the proposed development.

3. THE PLANNING ISSUES

3.1. INTRODUCTION

3.1.1. This chapter sets out the Examining Authority's (ExA) findings and conclusions on the planning issues. The chapter is structured firstly to review the initial assessment of principal issues (IAPi) and explains how the issues identified there have been managed. It then examines matters of principle, including need and alternatives. It then addresses individual planning issues, set out in individual sections. The order in which these section headings are presented should not be taken to imply any order of importance.

3.1.2. In each section, the ExA identifies the policy background, followed by a summary of the application as made, then reports on the main issues for each topic. Findings and conclusions are drawn for each topic. These in turn identify whether the effects carry little weight, moderate weight, great weight, or very great weight for or against the making of the Development Consent Order (DCO).

INITIAL ASSESSMENT OF PRINCIPAL ISSUES

As required by section (s) 88 of the Planning Act 2008 (PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR), the ExA made an IAPi arising from the application in advance of the Preliminary Meeting (PM). This formed an initial assessment of the issues based on the application documents and submitted relevant representations (RR). The list of issues relates to all phases of the proposed development. The IAPi was raised at the PM and no other key topics were identified during the examination. The IAPi can be found in Annex C of the Rule 6 Letter [\[PD-009\]](#). The issues identified in the IAPi are as follows:

- Benthic Ecology, Intertidal, Subtidal and Coastal Effects
- Civil and Military Aviation and Communication
- Commercial Fisheries and Fishing
- Cumulative Effects
- Fish and Shellfish Ecology
- Habitats and Onshore Ecology, including Onshore Ornithology
- Habitats Regulations Assessment
- Historic Environment and Marine Archaeology
- Land Use, Geology and Ground Conditions
- Landscape and Visual Effects
- Marine and Intertidal Ornithology
- Marine Mammals
- Noise and Vibration
- Oil, Gas and Other Offshore Infrastructure
- Traffic, Transport and Public Rights of Way
- Water Quality and Resources

3.1.3. In addition to the principal issues listed above, the Rule 6 Letter [\[PD-009\]](#) notes that certain policy and consenting requirements and documents associated with the PA2008 are integral to the examination and are therefore not listed as principal issues. These include:

- the assessment of alternatives to, and the need for, the proposed development
- the draft Development Consent Order (dDCO), planning obligations, agreements, licences, management plans and protective provisions
- Compulsory Acquisition and Temporary Possession of Land Rights

- the achievement of sustainable development, including the effects of the proposed development on climate change and greenhouse gas (GHG) emissions
- the achievement of good design
- the effects of the proposed development in relation to human rights and equalities duties

THE PLANNING ISSUES IN THIS REPORT

3.1.4. The ExA considers that the issues raised by interested parties (IPs) were broadly in line with the IAPI and were subject to written and oral questioning during the Examination. These are the issues that the ExA has used to structure most of the following sections in this report which address each issue in turn. However, in order to facilitate efficient consideration of the relationships between certain issues and to avoid repetition in analysis, the ExA has varied the order of its consideration of issues arising from the IAPI. It should also be noted that the IAPI is a high-level framework. The ExA has nevertheless had regard to all important relevant matters arising from submissions from IPs and has reported on these, if required, within each chapter below.

3.1.5. The planning issues considered in this report are as follows:

- Chapter 2: The policy and legislative background
- Chapters 3.3 – 3.22: Individual planning merits topics (normally driven by the IAPI, but amended to take account of issues that declined or grew in importance during the Examination).
- Chapter 4: Summary of the Habitats Regulation Assessment
- Chapter 5: The case for making a Development Consent Order
- Chapter 6: Land rights and related matters
- Chapter 7: The Development Consent Order and other consents
- Chapter 8: Summary of conclusions and recommendations

3.2. THE PRINCIPLE OF THE DEVELOPMENT

3.2.1. In addition to the issues arising from the IAPI, the ExA has also given consideration on an overarching basis to the principle of the development in terms of:

- Need
- Conformity with designated NPS policy
- Other legislation
- Alternatives

Need

3.2.2. The commitment to offshore wind targets was originally set out in the Offshore Wind Sector Deal agreed between the government and the offshore wind industry in 2019. Originally targeting 30 gigawatts (GW) of operating capacity by 2030, this figure was increased to 40GW in the Energy White Paper published in 2020, as part of the plan for the green industrial revolution. It is a key recommendation of the Climate Change Committee that offshore wind should become the backbone of the whole UK energy system, growing from 40GW of capacity in 2030 to 100GW or more by 2050.

3.2.3. Most recently, the government has outlined an even greater level of ambition in the British Energy Security Strategy, published in 2022, which sets out an ambition to reach 50GW of offshore wind by 2030. As part of this strategy, investing in offshore wind generation has been listed as one of the government's '10 Point Plan', contributing to a carbon net zero by 2050. The British Energy Security Strategy is anticipated to support around 90,000 jobs in offshore wind by 2030, with a goal of accelerating offshore wind deployment, ensure energy security and stabilise consumer prices in the longer term.

Conformity With Designated National Policy Statements (NPS)

NPS EN-1

3.2.4. NPS EN-1 sets out the case for both the need and urgency for new energy infrastructure to be consented and built as soon as possible. It acknowledges that energy is vital to economic prosperity and social well-being and sets out how the energy sector can help deliver the government's climate change objectives by setting out the need for new low carbon energy infrastructure to contribute to climate change mitigation.

3.2.5. NPS EN-1 makes it clear that applications for development consent for the types of infrastructure covered should be assessed on the presumption that there is a need for those types of infrastructure and that substantial weight should be given to this need (paragraph 3.2.6).

3.2.6. It emphasises the need for new nationally significant energy infrastructure projects to achieve energy security as well as dramatically reducing GHG emissions in the UK. It goes on to state that the UK is choosing to largely decarbonise its power sector by adopting low carbon sources quickly and the government would like the industry to bring forward many new low carbon developments to meet the twin challenge of energy security and climate change as we move towards 2050.

3.2.7. With regards the role of offshore wind, the NPS notes that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed

predominantly of wind and solar (paragraph 3.3.20) with an ambition to deliver up to 50GW of offshore wind by 2030 (paragraph 3.3.21)

- 3.2.8. Paragraph 3.3.62 of EN-1 highlights that the government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure. Paragraph 4.2.5 goes on to identify offshore generation as falling within the definition of a CNP.

NPS EN-3

- 3.2.9. NPS EN-3 covers the nationally significant renewable electricity generating stations, including offshore wind (>100 megawatts (MW) in England) (paragraph 1.6.1). Similarly, it will apply to offshore transmission infrastructure projects in English waters which are directed into the Nationally Significant Infrastructure Project regime under section 35 of the Planning Act 2008 (paragraph 1.6.3).
- 3.2.10. NPS EN-3, taken together with NPS EN-1, provides the primary policy for decisions by the Secretary of State (SoS) on applications they receive for nationally significant renewable energy infrastructure.
- 3.2.11. It makes clear reference to the target of 50GW of new offshore wind capacity by 2030 (paragraph 2.8.1) Given the ambitions to deliver up to 50GW of offshore wind by 2030, there is a need to speed up and reduce delays in the consenting process (paragraph 2.8.7).

NPS EN-5

- 3.2.12. NPS EN-5 taken together with NPS EN-1, provides the primary policy for decisions taken by the SoS on applications it receives for electricity networks infrastructure (paragraph 1.1.9). This NPS does not seek to repeat the material set out in EN-1 or EN-3. The policy in EN-3 on offshore wind in particular contains details relevant to offshore transmission (paragraph 1.3.2).
- 3.2.13. Paragraph 1.1.1 reiterates the points made in EN-1 stating that:
- “the security and reliability of the UK’s current and future energy supply is highly dependent on having an electricity network which will enable the new electricity generation, storage, and interconnection infrastructure that our country needs to meet the rapid increase in electricity demand required to transition to net zero, while maintaining energy security.”*
- 3.2.14. Paragraph 1.1.2 goes on to advise that a significant amount of new network infrastructure is required in the near term to directly support the government’s ambition to deploy up to 50GW of offshore wind capacity (including up to 5GW floating wind) by 2030. It highlights that there is an expectation that there will be a need for substantially more installed offshore capacity beyond this to achieve net-zero by 2050.
- 3.2.15. Paragraph 1.1.3 discusses the importance of the provision of the electricity network infrastructure to support the government’s offshore wind ambition. It states that:
- “this is as important as the offshore wind generation infrastructure. Without the development of the necessary networks to carry offshore wind power to where it is needed in the UK, the offshore wind ambition cannot be achieved.”*
- 3.2.16. In considering factors which influence site selection and design EN-5 advises that the SoS should bear in mind that the initiating and terminating points – or

development zone – of new electricity networks infrastructure is not substantially within the control of the applicant, with siting being determined by the location of new generating stations or other infrastructure requiring connection to the network, and/or system capacity and resilience requirements determined by the Electricity System Operator.

- 3.2.17. These twin constraints, coupled with the government's legislative commitment to net zero by 2050, strategic commitment to new interconnectors with neighbouring North Sea countries and an ambition of up to 50GW of offshore wind generation by 2030, means that very significant amounts of new electricity networks infrastructure will be required, including in areas with comparatively little build-out to date (paragraphs 2.2.1-2.2.3).

Other legislation

Climate Change Act 2008

- 3.2.18. The Climate Change Act 2008 sets the framework for the UK to transition to a low-carbon economy, exceeding the targets set out in the EU Renewables Directive. It places a duty on the government to ensure their net carbon account and GHG emissions are reduced, initially by 80% relative to 1990 levels by 2050.
- 3.2.19. To achieve this target, the government committed to implement five-yearly carbon budgets that will run until 2032 to restrict the amount of emissions within each five-year period. More recently, the Climate Change Act 2008 (2050 Target Amendment) Order 2019 introduced amendments to enshrine in law a more challenging commitment of a reduction of net emissions by 100% by 2050 relative to 1990 levels. This legal target will remain in place in the UK and is not affected by its withdrawal from the EU.
- 3.2.20. In its Clean Growth Strategy, the Department for Business, Energy & Industrial Strategy (BEIS) (now the Department for Energy Security and Net Zero) outlined the government's plans for investment in low carbon innovations, energy transmission and smart systems to supply the UK with secure, affordable clean power (BEIS, 2017a). The Clean Growth Strategy provides a strong commitment from the government to achieving the UK's climate change targets as detailed in the Climate Change Act 2008.
- 3.2.21. The Clean Growth Strategy commits to a Sector Deal for offshore wind aimed at encouraging the development and deployment of a further 10GW of offshore wind development in UK waters in the 2020s (BEIS, 2017a) along with the government's commitment to installing 40GW of offshore wind around the UK by 2030 and ambition of 50GW by 2030.

The Energy Act 2004

- 3.2.22. The Energy Act 2004 includes provisions for the decommissioning of offshore installations (including offshore wind). Part 2 Chapter 3 of the Energy Act 2004 details these provisions which includes the requirement to prepare a decommissioning programme, the approval process of said programme, what happens in the event of failure to submit or rejection of a decommissioning programme, the review and revision process, how to carry out a decommissioning programme and the regulations concerning decommissioning programmes.

Environment Act 2021

- 3.2.23. The Environment Act 2021 acts as a framework of environmental protection in the UK, and aims to improve air and water quality, biodiversity and waste reduction. The Environment Act also established the Office for Environmental Protection (OEP). The OEP's principal function is to contribute to environmental protection and the improvement of the natural environment by holding the government and other public authorities to account.

British Energy Security Strategy 2022

- 3.2.24. In April 2022, the government published the British Energy Security Strategy (BESS) in response to the rising global energy costs, which has ultimately resulted in an increase in the cost of living in the UK. The policy paper sets out how the government is *“going to bring clean, affordable, secure power to the people for generations to come”* and *“build a British energy system that is much more self sufficient.”*

The Energy Act 2023

- 3.2.25. The Energy Bill was first announced in the Queen's Speech on 10 May 2022, and received Royal Assent on 26 October 2023 as the Energy Act 2023. The initial Energy Bill was proposed by the government as a response to the COVID-19 pandemic and the invasion of Ukraine, which together resulted in highly elevated energy prices and a renewed focus on the reliance on imported, fossil fuel generated energy within the UK. The Energy Act has been developed with the intention of speeding up the deployment of offshore wind, while maintaining environmental protection. This is to provide a cleaner, more affordable and more secure energy system and facilitate the achievement of net zero by 2050.
- 3.2.26. The Act supports the ambition for 50GW of offshore wind by 2030 as laid out within the British Energy Security Strategy. It delivers the Offshore Wind Environmental Improvement Package initiative set out by the government in 2022, which aims to significantly reduce the offshore wind consenting process, whilst continuing to protect the marine environment.
- 3.2.27. The Act is intended to accelerate deployment of offshore wind by helping to reduce the consenting timescales whilst ensuring that environmental commitments are met. A key part of this is the development of the Marine Recovery Fund which will provide a mechanism to allow individual developers and projects to contribute to the compensation for impacts to the marine environment at a strategic level across multiple projects.

Alternatives

- 3.2.28. NPS EN-1 does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option. However, applicants are required to include in their Environmental Statement (ES) information about the main alternatives they have studied and include an indication of the main reasons for the choice made, taking into account the environmental, social and economic effects including technical and commercial feasibility.
- 3.2.29. NPS EN-1 indicates that the consideration of alternatives should be carried out in a proportionate manner, and that the SoS should only consider those alternatives that can meet the objective need for the proposed development and have a realistic prospect of delivering the same capacity in the same timescale.

THE APPLICANT'S CASE

Need

- 3.2.30. The applicant's Planning Statement [[APP-297](#)] sets out its case for the need for the proposed development. It sets out that national, international and local policy establishes a clear identified need for offshore windfarms and for the proposed development for the delivery of both clean energy (to meet government targets) as well as significant economic benefits.
- 3.2.31. The applicant's Planning Statement highlights that offshore wind is key in achieving the UK government targets for 2030 and 2050. The offshore wind industry presents an opportunity to utilise and further develop the UK's maritime engineering skills in order to secure supply chain and other employment opportunities in the UK. The applicant also notes that The Crown Estate has highlighted the importance of maximising opportunities for the involvement of local businesses and communities in offshore wind has been highlighted as a key success factor for the sector in the UK.
- 3.2.32. The applicant considers that there is a demonstrated need for the types of infrastructure represented by the proposed development and that the scale and urgency of that need is as described in NPS EN-1.

Alternatives

- 3.2.33. ES chapter 4 sets out the applicant's Site Selection and Consideration of Alternatives [[REP5-013](#)]. It sets out the main reasons for the options selected for the proposed development and the reasons for not opting to select the alternatives considered.
- 3.2.34. The applicant sets out a staged approach to defining the spatial boundaries and constituent parts of the proposed development. It also explains and details the main alternatives considered for the Project, including location and infrastructure options, in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations.).
- 3.2.35. The applicant notes that the outcomes of the site selection process undertaken for the proposed development have defined the description of it for assessment, including the current engineering design, total footprint and construction, operation and maintenance and decommissioning activities. The applicant explains that wherever possible and practicable, it has sought to accommodate preferences and concerns raised by stakeholders through the site selection process whether by adjustments to the Order limits, areas of works or designs being considered.
- 3.2.36. The applicant also notes that the site selection process and alternatives considered have been through a process of detailed analysis of environmental, social and engineering constraints, with key feasible alternatives taken forward for consideration.
- 3.2.37. However, the applicant also stresses that it has employed a maximum design scenario approach. Therefore, it recognises that whilst the site selection process undertaken has included a number of refinements to the proposed development envelope so far as practical, there remains some areas of flexibility to allow for detailed engineering and design post consent.

Issues of Need and Alternatives Considered During the Examination

- 3.2.38. There were no substantive issues raised during the examination on the subject of the need for and alternatives to the proposed development. The ExA has, nevertheless, had due regard to the evidence provided which relates to these matters at application stage and during the examination.

Conclusions

- 3.2.39. The urgent need for energy security at the same time as dramatically reducing GHG emissions is established through the NPSs which recognise that there is an urgent need for new large scale energy infrastructure to support the transition to a Net Zero economy. The ExA concludes that the proposed development as an offshore wind farm project would make a meaningful contribution to meeting this need, would help in the transition to a low carbon system and would generally be in accordance with the designated NPSs.
- 3.2.40. It is also clear that in the intervening period from the designation of the NPSs that the direction of travel in government policy is that the deployment of offshore wind is central to the decarbonisation of the UK economy and in reaching Net Zero by 2050 and that without it, the legally binding target in the Climate Change Act 2008 is unlikely to be met. As such, the proposed development would clearly make an important contribution towards meeting the Net Zero obligation.
- 3.2.41. The ExA is satisfied that sufficient details of the alternatives, the approach to site selection, layout and technologies and how these were considered as part of the overall project design, have been provided to meet the requirements contained within NPS EN-1 and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations).
- 3.2.42. The ExA concludes, notwithstanding the consideration of project-specific issues, that the overarching need argument for the proposed development is very strong in terms of meeting the urgent need for low carbon energy and this weighs heavily in favour of making the order and carries very great weight in the [planning balance](#). This weight is equivalent to the substantial weight identified within NPS EN-1.

3.3. GOOD DESIGN

Introduction

- 3.3.1. This section considers the applicant's approach to design as it relates to the proposed development as a whole and to specific elements of the proposed development which would have an impact on their surrounding environment.
- 3.3.2. The effects of the proposed development on landscape character and views and the effectiveness of mitigation proposals are considered in section 3.13
- 3.3.3. In its consideration of the applicant's approach to the design of the proposed development below, the Examining Authority (ExA) has had regard to:
- National Policy Statement for Energy EN-1 (NPS EN-1) as set out in section 4.5
 - National Policy Statement for Renewable Energy Infrastructure (NPS EN-3), as set out in sections 2.3 and 2.5
 - The National Planning Policy Framework, December 2023 (NPPF). The ExA notes that the NPPF was updated in December 2024 and was subject to further minor amendments in February 2025. The nature of these changes to the NPPF do not alter the ExA's consideration of design for the proposed development
 - Local Impact Reports (LIR)
 - Any other important and relevant matters

The Applicant's Case

- 3.3.4. The applicant's Design Principles Statement (DPS) [[REP5-127](#)] sets out the key design principles adopted by the applicant for the onshore substation (OnSS), as well as outlining the design elements that would be agreed through the design review process and how the applicant would implement these as part of its post-consent detailed design of the proposed development.
- 3.3.5. The applicant's Design Approach Document (DAD) [[REP5-125](#)] describes its overall design approach.
- 3.3.6. The Planning Statement submitted by the applicant [[APP-297](#)] establishes its case for the proposed development's compliance with the principles of good design in accordance with NPS EN-1.

Scope and Methodology

- 3.3.7. The DPS [[REP5-127](#)] notes that at the application stage, decisions on exact locations of specific components and the precise technologies and construction methods that would be employed had not been confirmed by the applicant. This includes the exact layout, equipment and technology of the OnSS.
- 3.3.8. The applicant has submitted indicative layouts and designs which the DPS [[REP5-127](#)] describes as representative of a maximum design envelope, or the Rochdale Envelope, approach. This is intended to assess what the applicant considers to be the worst-case scenario, based on the maximum parameters defined for the OnSS as outlined in section 2.1.4 of the DPS.
- 3.3.9. The DPS [[REP5-127](#)] acknowledges that the design stage of the OnSS would be an evolutionary and iterative process. The OnSS has been subject to the consultation

phases carried out by the applicant to date and it would be subject to a design review process, which is outlined in the DAD [\[REP5-125\]](#), if consent is granted.

- 3.3.10. The DAD [\[REP5-125\]](#) describes the purpose and key design decisions and phases that the design review process would be intended to influence. In addition, it summarises the consultation undertaken to date and sets out how this has influenced the DPS [\[REP5-127\]](#). The DAD also sets out how the applicant intends to secure good design through the draft Development Consent Order (dDCO) [\[AS-042\]](#) and describes the process through which consultees would be involved in the refinement of the detailed design of the proposed development.
- 3.3.11. In the event that the Secretary of State (SoS) makes the Order that the applicant seeks, detailed design of the OnSS would be finalised post-consent, once a principal contractor has been appointed. The final design of the OnSS would be subject to approval by Lincolnshire County Council (LCC), in accordance with requirement (R) 9 of the dDCO [\[AS-042\]](#), prior to the commencement of construction works.
- 3.3.12. The DAD [\[REP5-125\]](#) sets out how the applicant has aligned its design approach with the four design principles for national infrastructure established in guidance provided by the National Infrastructure Commission:
- Climate
 - People
 - Place
 - Value
- 3.3.13. Both the DAD [\[REP5-125\]](#) and the DPS [\[REP5-127\]](#) are also stated by the applicant to align with the Planning Inspectorate's (PINS) Advice on Good Design, published in October 2024. The Design Advice Document sets out the steps that the applicant has taken to secure good design in line with the four stages set out in PINS advice page:
- Assemble
 - Research
 - Co-ordinate
 - Secure

Applicant's Assessment of Effects and Proposed Mitigation

- 3.3.14. The applicant's vision and objectives for the proposed development, are expressed in its DAD [\[REP5-125\]](#), section 2.1 and 2.2 respectively.
- 3.3.15. The DAD [\[REP5-125\]](#) goes on to summarise the design principles that the applicant has adopted under the headings of site selection and design choices and outlines the beneficial outcomes that the applicant anticipates would result from the proposed development. The applicant stresses that the ultimate purpose of the proposed development is to deliver the following outcomes:
- Enhance the UK's energy security
 - Deliver on the government's renewable energy targets
 - Help to address the climate emergency

Issues Considered During the Examination

- 3.3.16. Based on the comments raised by interested parties (IP) and the ExA's review of the application documents, the key issues considered during the examination were:

- The applicant's design process and the alignment of this process with PINS advice page on good design.
- The proposed design solutions for the OnSS.
- The proposed design solutions for the offshore restrictive compensation platforms (ORCPs).

The Applicant's Design Process and the Alignment of this Process with PINS' Advice Page on Good Design

3.3.17. Within the DAD submitted at the application stage [[APP-292](#)], the applicant noted that its design process would be iterative and that it would continue during the post-application stage. The applicant noted that the following design-based tasks would be undertaken:

- A Local Design Group meeting would be held in the summer of 2024
- The applicant would complete its winter photography campaign
- Visuals would be prepared for the OnSS

3.3.18. In response to a request from the ExA for an update on the progress achieved under each of the bullet points above during the examination, the applicant confirmed [[REP2-051](#)] Q1 DES 1.1 that a substation community liaison group meeting was held in July 2024, after submission of the DCO application. The applicant noted that the meeting covered the process of design review, onshore substation technology options, planting proposals and feedback from the external review undertaken by the design review panel (DRP).

3.3.19. Within the same response the applicant also confirmed that winter photography of representative viewpoints was undertaken in January 2024 and that since winter visualisations had not been requested by statutory consultees, the winter photography was primarily undertaken to inform future colour assessments which may be required.

3.3.20. The applicant further clarified that it had selected the locations of viewpoints used in its Landscape and Visual Impact Assessment (LVIA) [[APP-083](#)] to ensure the fullest available visibility of the OnSS. As a result, the selected points had little or no visual obstruction due to vegetation. The applicant concluded, therefore, that its winter photography would not reveal any notable increase in the extent to which the onshore substation would be visible when compared against its summer photography. With this in mind, the applicant confirmed that it had determined that the production of further visualisations would not be necessary.

3.3.21. In response to a further question related to the need, or otherwise, for further visualisations, LCC responded [[REP4-133](#)], Q2 DES 1.1 that it did not believe that further visualisations would be necessary as part of the examination. LCC did, however, stress that further visualisations may be required if the proposed development progressed to the detailed design stage.

The Exa's Reasoning on the Applicant's Design Process and the Alignment of this Process with PINS' Advice Page on Good Design

3.3.22. The ExA recognises that the applicant has embarked on the early stages of a design process, but that this process has yet to go through a significant period of evolution. The applicant had engaged in an early-stage design review, but the ExA found that the applicant had not progressed its design, based on the outcomes of this review at the application stage.

- 3.3.23. The fact that the applicant has engaged in an independent design review process is nevertheless welcomed by the ExA, as is the applicant's engagement with the Planning Inspectorate's Advice Page on Good Design, which was published during the examination period.

The Proposed Design Solutions for the OnSS

- 3.3.24. The ExA noted in its Written Questions (ExQ1) [\[PD-013\]](#) that the applicant's DAD [\[APP-292\]](#) committed to an independent external design review of the OnSS from Q2 of 2024 and asked the applicant to share the findings of and feedback from that design review with the examination.
- 3.3.25. The applicant responded at deadline (D) 2 [\[REP2-051\]](#) with commentary on the findings and feedback given by the DRP, setting out a summary of the feedback received as follows:
- appreciation of being involved at an early stage in the design process
 - commended the applicant on consultation and engagement on this topic
 - good site analysis and understanding of local landscape
 - mitigation proposed would mitigate the visual impact
 - encouragement to explore further landscaping options
 - exploring further synergies with the local landscape
- 3.3.26. At issue specific hearing (ISH) 3 [\[EV7-001\]](#), the ExA sought to establish whether the DRP had a remit to provide design feedback. The applicant responded [\[REP3-051\]](#) confirming that the DRP would have the ability to give design feedback on any OnSS building design and that the applicant has undertaken early engagement with the DRP, including a workshop and site visit. The applicant also noted that the discussion with the DRP was worthwhile and challenging and would ensure that opportunities for good design are maximised where there is flexibility.
- 3.3.27. In response to ExQ1 [\[PD-013\]](#) DES 1.1, LCC [\[REP2-069\]](#) noted that it recognised some merit in the use of mitigation planting but considered that the use of this as a sole method for screening would be both potentially ineffective, given the possible scale of the proposed OnSS building(s), and also detrimental to the open character of the landscape. LCC highlighted a community consultation event in which feedback was received. The DRP suggested that instead of hiding the building behind planting, there was merit in pursuing a creative design solution that stood alone as a piece of architecture and, while softened by strategic planting, the idea of hiding it behind planting was not necessarily ideal.
- 3.3.28. LCC confirmed [\[REP2-069\]](#) that it supported such an approach, but noted that at application stage it was unable to discern an indication of the direction in which the applicant's design was developing.
- 3.3.29. In response to a request from the ExA to expand on this response at ISH3 [\[EV7-001\]](#), LCC noted that it was concerned that if the built element of a potential OnSS was not designed very well it could easily look quite "odd" within what is quite an open and sparse landscape setting. LCC therefore supported the suggestion that a successful design approach for the OnSS might rather be one that, rather than having a simplistic mitigation plan that relied solely on trees and hedgerows as screening elements for the OnSS, could be combined with a feature of architecture in the landscape.
- 3.3.30. LCC continued, noting that it did not believe that a successful approach would be one in which the OnSS would be hidden by landscape, but that it would support an

approach where the planting was not the dominant feature. LCC explained that this is based on the existing character and context of the surrounding area, which is one of openness, extending long range views in most directions and that it would prefer a design solution in which the proposed planting helped to blend the OnSS into the landscape.

- 3.3.31. The applicant [[REP3-051](#)] responded to this with a clarification, noting that the reference to a “*building*” when discussing the OnSS may be premature, since it could be the case that if it adopted air insulated switchgear technology there may not be an individual large building. The applicant further also sought to ease any potential concern raised by LCC relating to the overall design of the OnSS and landscape, noting the approval mechanisms set out within requirement R9 and R10 of the dDCO [[AS-042](#)] were such that these would be matters which would sit within the control of the relevant authority at the detailed design stage.
- 3.3.32. The applicant also stated its view that the present lack of natural habitats in the proposed location of the OnSS should not automatically lead to a conclusion that the landscape should remain open, rather than be enhanced in terms of landscape character, visual amenity and ecology. Within the same response, the applicant also confirmed that it would welcome further input from the DRP, LCC, the community liaison group and the wider community in order to ensure that the applicant draws on the opinions of all those that would live with the design in years to come.
- 3.3.33. Noting that, at application stage, the applicant relied [[REP2-051](#)] on the effectiveness of new planting to mitigate the landscape and visual effects of the proposed OnSS. The applicant highlighted that it’s priority would be to implement effective mitigation within the shortest practicable timeframe. The ExA observed [[PD-020](#)] that the applicant estimated that its proposed planting would not mitigate significant effects as a result of the OnSS until a period sometime between 5 and 15 years after it would be implemented.
- 3.3.34. Further to this, the ExA asked the applicant to explain why it considered that the development of an integrated, site-specific, co-ordinated design solution for the substation structures would be a less effective and time-efficient approach to minimising the adverse effects of the proposed substation structures than a planting strategy which, by its own admission, would have a multi-year timescale.
- 3.3.35. The applicant responded [[REP4a-110](#)] to express the view that it was pursuing an integrated, site specific, co-ordinated design solution and that it believed that this requires design development of both the substation structures and the surrounding landscape to ensure a holistic response is achieved. The applicant continued, noting that in terms of the design development, this would follow an iterative process, working with an increasing scope at each stage of project development.
- 3.3.36. Further to this, the applicant explained that if consent were to be granted, the OnSS would be designed by a nominated specialist contractor that would include architectural and engineering inputs. The nominated specialist contractor would design and implement the OnSS through the construction phase. The development of the detailed design would provide the design (as approved by LCC under dDCO R9) of the OnSS and the landscape planting together and would look to fully maximise the scope of the OnSS design.
- 3.3.37. At ISH5 [[EV10-001](#)], the ExA set out its concern that as there was neither an outline proposal for the design of the OnSS nor a decision on the switchgear insulation technology to be adopted, there was scant evidence to demonstrate that the

applicant's design process would result in a design solution of sufficiently good design quality. As a result, the ExA sought assurances from the applicant that its design process could demonstrate that the policy requirements to achieve good design would be met through the process adopted by the applicant. In addition, the ExA noted that in the absence of any detail describing the possible design solutions for the OnSS within the applicant's design documents, it was unclear how a determining authority would be able to assess whether a detailed design that would come before it was in accordance with design documents certified in the dDCO [\[AS-042\]](#).

- 3.3.38. Rather than responding fully at ISH5, the applicant provided a detailed response in writing [\[REP4a-120\]](#) noting that it had provided updates to its DAD [\[REP 4-075\]](#) and DPS [\[REP4-077\]](#) and further updates would be provided at D5. The applicant was confident that these updates would clarify the process through which it intended to secure good design.
- 3.3.39. Additionally, the applicant noted that the route to good design had been embedded in the dDCO, starting with R9(1), which requires that the applicant produce a detailed design covering the layout, scale, building elevations and external appearance of the onshore substation. R9(3) then requires that the detailed design will be in accordance with the DAD and DPS produced by the applicant. With regard to this, the ExA notes that at D4a the applicant updated R9(3) of the dDCO [\[REP4a-006\]](#) so that the design details specified in R9(1) also must be in accordance with the DAD.
- 3.3.40. Further to this, the applicant noted that as R9(1) stipulates that the construction of the OnSS would not commence until the detailed design has been submitted and approved by LCC. The result of this would be that the onus would be on LCC to ensure that good design would be delivered, following the process and principles set out in the DAD and DPS and implemented through the careful consideration of the detailed design.
- 3.3.41. Over the course of the examination, the ExA was mindful of the fact that the applicant submitted updated versions of both its DAD and DPS documents, both at D4 and, as noted above, a final revision of both documents at D5 [\[REP5-125\]](#) and [\[REP5-127\]](#) respectively, providing further information from the applicant describing the role of the DRP and the applicant's approach to securing good design.

The Exa's Reasoning on the Applicant's Approach to Good Design in Relation to the Onss

- 3.3.42. The ExA recognises that the applicant has, in general terms, engaged in a design and consultation process which has influenced the decisions it made up the point of its application for development consent. During the examination, there was some further, albeit limited, development of the applicant's design approach, as shown in its periodic updates to both the DAD [\[REP5-125\]](#) and DPS [\[REP5-127\]](#).
- 3.3.43. In particular, the applicant should be commended for engaging with and aligning its design documentation with the Planning Inspectorate's Advice Page on Good Design, despite this advice being published after the date of its application. This has assisted the ExA's examination of this matter.
- 3.3.44. The ExA notes the applicant's commitment to the appointment of a project design champion at this stage of its process and also notes that the appointment of the project design champion is within the DAD [\[REP5-125\]](#), which is itself a certified

document within the dDCO [\[AS-042\]](#). In addition, the ExA welcomes the applicant's commitment to an independent design review process, also set out within its DAD and notes that it has already begun to engage with its appointed DRP.

- 3.3.45. With specific regard to the OnSS, however, the ExA notes with some disappointment that the applicant has been unable to demonstrate evidence of how it has evolved its design of this element. At application stage, the applicant had not made a decision on the type of insulation technology it would adopt for the OnSS switchgear. The applicant has, therefore, not undertaken any early-stage design work to explore the design options of its OnSS structures. The ExA is not convinced by the applicant's reasoning for not undertaking a greater level of design work in this context.
- 3.3.46. It is apparent to the ExA that the applicant had two typological options to explore at the early design stage prior to its application. The ExA regards the applicant's choice to not engage in developing its design options for the OnSS to a greater level of detail as being to the detriment of the application.
- 3.3.47. Whilst the DPS [\[REP5-127\]](#) provides some information on elements and material which would typically be adopted as part of a substation design, when taken out of the context of a design proposal for its substation structures, such information remains abstract and of limited value in assisting the assessment of the applicant's design of the OnSS.

The Proposed Design Solutions for the Offshore Restrictive Compensation Platforms

- 3.3.48. The applicant's approach to the design development of the proposed ORCPs is covered in detail within section 3.12 of this Recommendation. This section provides a summarised version of the more detailed examination and reasoning set out in that section.
- 3.3.49. The ExA sought clarification at ExQ1 (Q1 SV 1.9) [\[PD-013\]](#) from the applicant on the reasons for the absence of consideration of offshore elements of the proposed development in the DAD [\[APP-292\]](#) and DPS [\[APP-293\]](#). Natural England (NE) and the local authorities were also invited by the ExA to comment on the merits of including offshore elements of the proposed development, particularly the ORCPs in the DAD and DPS to facilitate good design. LCC stated that its focus would be on onshore design matters [\[REP2-069\]](#). NE [\[REP2-074\]](#) confirmed that due to the low risk of impacts for designated landscapes, the design of ORCPs was not of particular concern to NE other than the extent to which the design might have a role in mitigating ecological effects.
- 3.3.50. At D4, the applicant submitted a revised DAD [\[REP4-075\]](#) to include consideration of offshore elements of the proposed development, including cross references to a new Outline ORCP DPS [\[REP4-121\]](#). The Outline ORCP DPS establishes design principles that would be adopted in the development of the detailed design of the ORCPs prior to construction. Following discussion at ISH5 [\[REP4a-120\]](#), the ORCP DPS [\[REP4a-112\]](#) and schedule 11, condition 13(a)(ii) of the dDCO [\[REP4a-006\]](#) were updated by the applicant to require that details of the ORCPs must accord with the principles set out in the ORCP DPS and be submitted for the written approval of the Marine Management Organisation (MMO).
- 3.3.51. The ExA acknowledges that no IPs object to the proposed development based on the seascape and visual effects of the ORCPs. However, the ExA also notes the

applicant's conclusions in the Seascape and Landscape Visual Impact Assessment (SLVIA) [\[REP5-033\]](#) which identified significant adverse effects in relation to visual receptors on the closest parts of the undeveloped sections of the Lincolnshire coastline. The ExA concurs with this conclusion and all others relating to effects as summarised by the applicant in table 17.15. This is further informed by the SLVIA and the ExA's observations at seascape viewpoints 5 and 6 during its unaccompanied site inspection held on 23 May 2024 [\[EV1-002\]](#).

Conclusions

- 3.3.52. The ExA is satisfied that the applicant has demonstrated that the proposed development would, having regard to regulatory and other constraints, be as adaptable as it could be at this stage. However, with specific regard to the OnSS structures, the ExA finds that the evidence submitted by the applicant of its design process for what would be the most visually prominent aspect of its proposed development is not sufficiently well developed, or detailed, to demonstrate that these structures have been designed to be as attractive and durable as they could be. The ExA is therefore unable to conclude that the applicant's proposals fully comply with NPS EN-1 section 4.7.10.
- 3.3.53. The ExA is also satisfied that the applicant has generally considered functionality, including and fitness for purpose. But once again in terms of its specific approach to the OnSS design, the ExA concludes that by not developing initial design options the applicant has been unable to adequately demonstrate that its proposals would contribute to the quality of the area within which the OnSS would be located. Additionally, the ExA does not find that the applicant has demonstrated that its design would result in potential amenity benefits or contribute positively to the visual impact on both landscape and seascape. The ExA is therefore also unable to conclude that the applicant's proposals fully comply with NPS EN-1 section 4.7.11.
- 3.3.54. The ExA is satisfied that the applicant has considered the wider impacts of development, such as landscape and environmental impacts and that these impacts, in design terms, are not disproportionate to the operational, safety and security requirements that its design must also satisfy. The ExA therefore concludes that the applicant's proposals are in accordance with NPS EN-1 section 4.7.12.. The applicant's approach to identifying and addressing specific impacts on landscape and other environmental matters are addressed elsewhere in this Recommendation.
- 3.3.55. The ExA welcomes the applicant's commitment to engaging in an independent design review process in its DAD [\[REP4-075\]](#), which is a document certified in the dDCO [\[AS-042\]](#) and therefore concludes that the applicant has met the requirements set out in section 4.7.14 of NPS EN-1.
- 3.3.56. Taking all of this into account and noting the potential significance of the impact arising from the proposed OnSS structures and the applicant's lack of design development of these structures at application stage, the ExA concludes that the applicant's approach to design should be afforded a little negative weight in the [planning balance](#).

3.4. BENTHIC ECOLOGY, INTERTIDAL, SUBTIDAL AND COASTAL EFFECTS

Introduction

- 3.4.1. This section examines the significance of effects of the proposed development on benthic ecology, intertidal, subtidal and coastal effects at the environmental impact assessment (EIA) level. The impacts on European sites and their qualifying features, both for the project alone and in-combination, are considered in more detail in the Habitats Regulations Assessment (HRA) chapter 4 and appendix C of this Recommendation.

Policy

- 3.4.2. In its consideration of benthic ecology, intertidal, subtidal and coastal effects below, the Examining Authority (ExA) has had regard to:
- the requirements of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) as set out in Section 4.5 and National Policy Statement for Renewable Energy (NPS EN-3), as set out in Section 2.8
 - the Marine Policy Statement (MPS) 2011
 - East Inshore and East Offshore Marine Plans 2014
 - any matters prescribed in relation to the development
 - any other important and relevant matters

The applicant's case

- 3.4.3. The applicant submitted a number of relevant documents in relation to benthic ecology, intertidal, subtidal and coastal effects to accompany the application, including the following:
- Environmental Statement (ES) Chapter 7 Marine Physical Processes [\[APP-062\]](#)
 - ES Chapter 8 Marine Water and Sediment Quality [\[APP-063\]](#) superseded by [\[AS1-038\]](#)
 - ES Chapter 9 Benthic and Intertidal Ecology [\[APP-064\]](#)
 - ES Chapter 7 Marine Physical Processes Figures Part 1 of 2 [\[APP-093\]](#)
 - ES Chapter 7 Marine Physical Processes Figures Part 2 of 2 [\[APP-094\]](#)
 - ES Chapter 8 Marine Water and Sediment Quality Figures [\[APP-095\]](#)
 - ES Chapter 9 Benthic and Intertidal Ecology Figures [\[APP-096\]](#)
 - ES Chapter 7 Appendix 1 Physical Processes Technical Baseline [\[APP-150\]](#)
 - ES Chapter 7 Appendix 2 Physical Processes Numerical Modelling Report [\[APP-151\]](#)
 - ES Chapter 7 Appendix 3 Seabed Mobility Report [CONFIDENTIAL] [\[APP-152\]](#)
 - ES Chapter 8 Appendix 1 Water Framework Directive [\[APP-153\]](#)
 - ES Chapter 9 Appendix 1 Benthic Ecology Technical Report (Array) [\[APP-154\]](#)
 - ES Chapter 9 Appendix 2 Benthic Ecology Technical Report (ECC) [\[APP-155\]](#)
 - ES Chapter 9 Appendix 3 Intertidal Technical Report [\[APP-156\]](#)
 - ES Chapter 9 Appendix 4 Marine Conservation Zone Assessment [\[APP-157\]](#)
 - ES Chapter 9 Appendix 5 Envision Data Analysis [\[APP-158\]](#)
 - Outline Scour and Cable Protection Management Plan [\[APP-295\]](#)
 - Outline Biogenic Reef Mitigation Plan [\[APP-296\]](#)

Scope and methodology

- 3.4.4. The study area and zone of influence (Zoi) for ES Chapters 7 and 8 are presented in Figure 8.1 [\[APP-095\]](#). The study area includes those elements that are located seaward of mean high water springs (MHWS) including:
- the offshore array
 - the offshore export cable corridor (ECC)
 - compensation areas
 - the seabed and water column surrounding these areas that may be influenced by changes to marine water and sediment quality (MW&SQ) due to the potential impacts of the project
- 3.4.5. The Zoi comprises a distance of between approximately 10 kilometres (km) (at landfall) and 15km (within the offshore ECC).
- 3.4.6. Impacts scoped in for assessment for marine physical processes are set out in section 7.7.1.1 of ES chapter 7 [\[APP-062\]](#) and the applicant's maximum design scenario (MDS) for the project alone is provided in table 7.3 [\[APP-062\]](#). The applicant's cumulative assessment for marine physical processes lists the projects considered in table 7.12, the cumulative MDS in table 7.13 and marine physical processes inter-relationships in table 7.14 [\[APP-062\]](#).
- 3.4.7. Impacts scoped in for MW&SQ are set out in section 8.6.1 of ES Chapter 8 [\[AS1-038\]](#) and the applicant's MDS for the project alone is provided in table 8.15 [\[AS1-038\]](#). The applicant's cumulative impact assessment for MW&SQ lists the projects considered in table 8.20, the cumulative MDS in table 8.21 and MW&SQ inter-relationships in table 8.22 [\[AS1-038\]](#).
- 3.4.8. The benthic and intertidal ecology study areas for ES chapter 9 are presented in Figure 9.1 [\[APP-096\]](#) and listed in section 9.5.1 of ES Chapter 9 [\[APP-064\]](#) as defined by the following:
- the offshore array
 - the offshore ECC to landfall at Wolla Bank
 - areas for the provision of Artificial Nesting Structures and creation of biogenic reef
 - a buffer of approximately 10km at landfall to 15km from the offshore ECC and 12km from the array, in order to incorporate the maximum distance sediments may travel in one tidal cycle (also referred to as the potential secondary Zoi)
 - the intertidal habitats up to the MHWS mark within the order limits
- 3.4.9. As detailed in table 9.2 of ES Chapter 9 [\[APP-064\]](#) pre-application consultation and Expert Topic Group meetings took place with key stakeholders to refine the scope of assessment and discuss key concerns. Impacts scoped in for assessment for benthic and intertidal ecology are set out in section 9.6.1.9 of ES Chapter 9 [\[APP-064\]](#), and the applicant's MDS for the project alone is provided in table 9.10 [\[APP-064\]](#).
- 3.4.10. The study area for the applicant's cumulative effects assessment for benthic and intertidal ecology is defined in section 9.5.1 [\[APP-096\]](#) by the wider (up to) 15km buffer surrounding the order limits, to incorporate the maximum distance suspended sediments are predicted to travel in one tidal cycle and therefore the indirect impacts on benthic and intertidal ecology that could interact cumulatively with impacts from other plans or projects. The projects and plans scoped in as part of the

cumulative effects assessment are presented in Table 9.19 [APP-064] and the cumulative MDS is set out in table 9.20.

The applicant's assessment of effects and its proposed mitigation

3.4.11. The embedded mitigation for marine physical processes is set out in table 7.4 of ES chapter 7 [APP-062]; for marine water and sediment quality in table 8.16 of ES Chapter 8 [AS1-038]; and for benthic and intertidal ecology is set out in table 9.11 of ES Chapter 9 [APP-064] and includes:

- a Construction Method Statement
- a Cable Burial Risk Assessment and the application of a burial hierarchy for cable installation where at least two attempts would be made to bury cables before cable protection is used
- the use of horizontal directional drilling (HDD) for the installation of the offshore export cables at landfall with the exit pits designed to be a target 500m offshore of the MLWS mark
- no cable protection would be used inshore of the HDD pits
- dredged material would be deposited within an area of similar sediment characteristics, in close proximity to the dredge location and no disposal would take place outside agreed disposal sites
- the implementation of a Project Environmental Management Plan including a Marine Pollution Contingency Plan
- a Scour Protection and Cable Protection Management Plan (SPCPMP) and a Cable Specification and Installation Plan (CSIP)
- the installation of scour protection where required for engineering purposes which may take the form of rock/gravel placement, concrete mattresses, flow energy dissipation devices, protective aprons or coverings, ecological based solutions and bagged solutions
- development of and adherence to a decommissioning programme
- removable cable protection on sandbank features within the Inner Dowsing Race Bank North Ridge Special Area of Conservation (IDRBNR SAC)
- micro-siting around *Sabellaria spinulosa* habitat
- no jack-up vessels within the IDRBNR SAC

3.4.12. A summary of the predicted effects is provided in:

- table 7.15 of ES Chapter 7 [APP-062] for marine physical processes
- table 8.23 of ES Chapter 9 [AS1-038] for marine water and sediment quality
- table 9.21 of ES Chapter 9 [APP-064] for benthic and intertidal ecology

3.4.13. For the project alone, the applicant has assessed that there would be no significant adverse residual effects for all potential construction, operation and maintenance and decommissioning effects that have been assessed. For cumulative impacts the applicant also concludes that there would be no significant adverse residual effects for construction, operation and maintenance and decommissioning.

Issues considered during the examination

3.4.14. During the course of the examination a number of additional and updated documents were submitted, with the key ones in terms of benthic ecology, intertidal, subtidal and coastal effects at the environmental impact assessment level including the following in deadline order:

- Physical Processes Technical Baseline Rev 2.0 [AS-003]
- Chapter 9 Appendix 2 Benthic Ecology Technical Report Rev 2.0 [AS-004]

- Offshore Export Cable Corridor Sabellaria Spinulosa Reanalysis and Report [PD1-095] and [REP3-035]
- Outline Biogenic Reef Mitigation Plan [REP2-043]
- Benthic and Intertidal Ecology Volume 3 Appendices Appendix 3.2 [REP3-018]
- Sandwave Levelling Study [REP3-047]
- Outline Scour Protection and Cable Protection Management Plan [REP4-080] and [REP4a-104] and [REP5-129] and [REP6-076]
- Chapter 7 Marine Physical Processes [REP4a-029]
- Chapter 7 Marine Physical Processes Part 1 of 2 [REP4a-041]
- Chapter 7 Marine Physical Processes Part 2 of 2 [REP4a-042]
- Offshore In-Principle Monitoring Plan [REP4a-073] and [REP6-054]
- Chapter 8 Marine Water and Sediment Quality [REP5-017]
- Chapter 8 Marine Water and Sediment Quality Figures [REP5-048]
- Chapter 9 Benthic and Intertidal Ecology [REP5-019] and [REP6-018]
- Chapter 9 Benthic and Intertidal Ecology Figures [REP5-049]
- Sabellaria Spinulosa Reef Supporting Habitat Technical Note [REP5-145] and [REP6-106]
- Offshore In-Principle Monitoring Plan [REP4a-073] and [REP6-054]

3.4.15. The revisions to previously submitted documents take account of proposed changes, including the introduction of the offshore restricted build area and refinements in light of comments received by interested parties (IPs). However, the applicant's assessment of the significance of effects in the final version of ES Chapters 7 [REP4a-029], 8 [REP5-017] and 9 [REP6-018] remain as that submitted with the application.

3.4.16. Based on the comments raised by interested parties (IPs) and the ExA's review of the application documents, the key issues considered during the examination that remained unresolved related to:

- cable protection placement locations and quantities
- cable protection within shallow nearshore waters
- *Sabellaria spinulosa* reef, supporting habitat and micro-siting
- use of HDD for the installation of the offshore export cables at landfall and the design of the exit pits
- Galahad gas platform

Cable protection placement locations and quantities

3.4.17. Throughout the examination, Natural England (NE) raised concerns in relation to cable protection within the IDRBNR SAC and this issue is considered in more detail in Appendix C of this Recommendation.

3.4.18. NE's relevant representation (RR) [RR-045] required clarification on the cable protection design within and outside the IDRBNR SAC. The applicant submitted an Outline CSIP at deadline 4 [REP4-080], which provides a percentage of the cable length across the sandbank and non-sandbank areas within IDRBNR SAC where cable protection may be needed. NE's Risk and Issues Log at deadline 5 [REP5-171] advises that a map should be provided identifying potential placement locations based on current understanding of the ground conditions.

3.4.19. NE continued to require such a map at the final deadline [REP6-153] and advised that the quantity (area and volume) of cable protection on each IDRBNR SAC feature, remaining area within the IDRBNR SAC, and offshore ECC outside the SAC is secured either within the Development Consent Order / Deemed Marine Licence (DCO/DML) itself or secured through a named plan such as the Outline

Scour Protection and Cable Protection Management Plan (SPCPMP) [\[REP4-080\]](#) to be agreed with NE and the Marine Management Organisation (MMO).

- 3.4.20. The final Statement of Common Ground (SoCG) between the applicant and NE for Benthic and Intertidal Ecology [\[REP6-089\]](#) is only in draft form and is not signed or dated. As such, it is the ExA's view that little consideration can be given to this document.
- 3.4.21. The applicant in its comments on NE's Risk and Issues Log [\[REP6-104\]](#) believes that it has provided sufficient information into the examination based on the information available. The applicant notes that pre-construction monitoring would be used to confirm placement locations beyond those presented in the Outline CSIP [\[REP6-062\]](#). It goes on to outline that full details, including a map of placement locations, are not currently available and would be informed by detailed engineering design work developed post-consent in consultation with relevant stakeholders. It considers that pre-construction monitoring would supersede any information provided at this stage.
- 3.4.22. Furthermore, the applicant sets out [\[REP6-104\]](#) that condition 13(1)(d)(iii), Part 2 of the DML at schedule 11 of the dDCO [\[REP6-008\]](#), requires details of scour protection and cable protection management in accordance with the SPCPMP [\[REP6-076\]](#), to be submitted as part of the construction method statement for the approval of the MMO. The applicant states [\[REP6-104\]](#) that as NE has identified, the worst-case scenario (WCS) areas and volumes of cable protection are set out in the SPCPMP and that any increase from those volumes would require further approval from the MMO and therefore all parties can have confidence that the volumes presented are appropriately secured.

The ExA's reasoning on cable protection placement locations and quantities

- 3.4.23. The ExA is satisfied that the WCS areas and volumes of cable protection and a requirement for the further submission of details are adequately secured via the wording of the SPCPMP [\[REP6-076\]](#) and the Outline CSIP [\[REP6-062\]](#), which are certified documents in Schedule 21 of the final dDCO [\[AS-042\]](#) and under the terms of condition 13 of schedules 11 and 12 of the dDCO [\[AS-042\]](#) as part of the construction method statement.
- 3.4.24. The ExA is reassured that through condition 13(1)(d)(iii) of schedules 10 and 11, the MMO would have control over the acceptance of the final plans, which would include the quantities, extent and locations of cable protection.

Cable protection within shallow nearshore waters

- 3.4.25. NE in its RR [\[RR-045\]](#) raised concerns regarding potential changes to wave energy transmission, nearshore sediment pathways, and coastal morphology, due to the presence of cable protection within the shallow nearshore zone perpendicular to longshore sediment transport. NE advised that the MDS parameters for cable protection measures within shallow nearshore waters should be more clearly defined and assessed accordingly.
- 3.4.26. The applicant's Responses to Relevant Representations [\[PD1-071\]](#) confirmed that cable protection measures within the nearshore environment would not take the form of 1.5-metre-high rock berms. The applicant stated [\[PD1-071\]](#) that cable protection measures within the inner depth of closure would be unlikely to exceed 0.35m in height (with the exception of cable crossings) and that full details would be

informed by detailed engineering work developed post consent in consultation with relevant stakeholders.

- 3.4.27. The applicant amended ES Chapter 7 at deadline 4a [\[REP4a-142\]](#) to include “*if cable protection is required in the nearshore...concrete mattresses will be utilised.*” NE in its deadline 5 Appendix B3 [\[REP5-163\]](#) welcome this and the securing of this commitment in the Outline CSIP [\[REP4-082\]](#) and the SPCPMP [\[REP4-079\]](#).
- 3.4.28. However, NE remained concerned that this does not explicitly state the MDS parameters for the nearshore cable protection and sought confirmation [\[REP5-163\]](#) on the MDS cable protection height being 0.35m and also the MDS nearshore cable protection length. NE also requested confirmation that mattresses would remain *in situ* in the dynamic environment and not be at risk from fishing activities.
- 3.4.29. NE’s final Risk and Issues Log [\[REP6-153\]](#) states that NE understands that the applicant intends to provide MDS at deadline 6 and that NE requires review of the applicant’s deadline 6 submission before it can revisit its position regarding EIA and HRA (Wash and North Norfolk SAC).
- 3.4.30. At the final deadline, The Applicant’s Comments on Natural England’s Risk and Issues Log [\[REP6-104\]](#) confirms the applicant’s commitment to the use of concrete mattresses in the nearshore and restates its commitment regarding the nearshore cable protection height to not exceed 0.35m. The applicant states that this is secured in the updated SPCPMP submitted at deadline 6 [\[REP6-076\]](#).
- 3.4.31. Furthermore, the applicant states in [\[REP6-104\]](#) that it is aligned with NE in that the preference is for the cables to be buried, as outlined in section 6.11.5 of ES Chapter 3 Project Description [\[REP5-009\]](#).
- 3.4.32. The applicant notes in [\[REP6-104\]](#) that it provided the following clarifications on the nearshore cable protection to NE on 25 March 2025:
- length 2,076m
 - area 12,456m²
 - volume 4,359m³
- 3.4.33. With regards to the movement of concrete mattresses due to storm events or fishing activities, the applicant states in [\[REP6-104\]](#) that a typical concrete mattress weighs approximately 9.5 to 10 tonnes and that its design conforms to industry standards. The applicant confirms [\[REP6-104\]](#) that its specialist consultant liaised with fishermen from the area (5 March 2025) and it has been indicated that there is an absence of trawlers in the nearshore area. In addition, the applicant considers that concrete mattresses are more likely to embed into the seabed, which it considers would increase their stability further. The applicant also states that it is aware of design optimisations of tapered concrete mattresses increasing stability even further where deemed required and that this would be defined in the detailed design stage post consent.
- 3.4.34. The applicant concludes in [\[REP6-104\]](#) that it is very confident that neither storm events nor fishing would impact on the stability or position of concrete mattresses.

The ExA’s reasoning on cable protection within shallow nearshore waters

- 3.4.35. The specific measurements provided by the applicant to NE on 25 March 2025 as clarifications on nearshore cable protection length, area and volume as set out above do not appear to be secured in any of the certified documents. Furthermore,

the applicant states in [REP6-104] that a commitment for the nearshore cable protection height to not exceed 0.35m is secured in the updated SPCMP submitted at deadline 6 [REP6-076]. However, other than stating that mattresses generally have dimensions of approximately 6m by 3m by 0.3m in paragraph 28 [REP6-076] it is not evident to the ExA that a maximum height of 0.35m for nearshore cable protection is secured [REP6-076].

- 3.4.36. NE's final Risk and Issues Log [REP6-153] states that NE requires review of the applicant's deadline 6 submission of MDS before it can revisit its position regarding EIA and HRA (Wash and North Norfolk SAC).
- 3.4.37. The ExA is unclear, based on the evidence submitted during the examination, what the impact would be on the significance of effects if the MDS parameters for cable protection measures within shallow nearshore waters, including the commitment to a maximum height of 0.35m are not adequately secured. However, as noted in the ExA's conclusion on cable protection as a whole, given that the WCS has been assessed it is unlikely to substantially alter the significance of effects. The Secretary of State may wish to consult with NE and the applicant on this matter to secure the nearshore MDS within the SPCMP.
- 3.4.38. The ExA considers that the applicant has provided a reasonable explanation that neither storm events nor fishing would impact on the stability or position of concrete mattresses.

***Sabellaria spinulosa* reef, supporting habitat and micro-siting**

- 3.4.39. NE's RR [RR-045] considered that the applicant's conclusion of no significant effects in EIA terms on *Sabellaria spinulosa* reef was not scientifically robust. At deadline 4 NE confirmed that its concerns regarding the technical data were resolved [REP6-153].
- 3.4.40. Following the submission of the applicant's *Sabellaria Spinulosa* Reef Supporting Habitat Technical Note [REP4a-122] NE provided further advice at deadline 6 [REP6-147] which confirmed that NE agreed with the applicant's assessment of supporting reef habitat within IDRBNR SAC. However, NE noted that this did not consider the potential wider presence of supporting habitat/reef across the ECC, outside of the SAC.
- 3.4.41. NE therefore stated that it disagreed with the implications in EIA terms and noted that *Sabellaria spinulosa* reef is afforded protection under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 within 12 nautical miles (nm). This matter remained an Amber issue for NE at deadline 6 in its Risk and Issues Log [REP6-153]. No further comments on the likely impact on the significance of effects was submitted by NE.
- 3.4.42. NE's RR [RR-045] also noted its disagreement in relation to Annex I *Sabellaria spinulosa* recovery and did not consider that micro-siting mitigation 'where possible' provided the required assurance. At deadline 5 the applicant amended its embedded mitigation relating to benthic ecology as set out in ES chapter 9 table 9.11 [REP5-019] to state that "*Windfarm infrastructure will be micro-sited around Annex I reef as far as practicable, to avoid where possible direct impacts to these sensitive habitats. A Biogenic Reef Mitigation Plan will be developed post consent following the pre-construction surveys which will identify any reef and confirm relevant mitigation measures implemented.*"

3.4.43. NE [\[REP6-147\]](#) welcomed the proposal to micro-site around potential Annex I reef habitat. However, NE considered that the inclusion of caveats of ‘where possible’ left a risk that Annex I reef would be adversely impacted. NE advised a stronger commitment to avoid impacting Annex I habitats is required. NE also stated that where avoidance of NERC 2006 Priority Habitat within 12 nautical miles (nm) and outside of IDRBNR SAC is not practicable then there should be a requirement to demonstrate how impacts have been minimised.

3.4.44. The applicant’s Outline Biogenic Reef Mitigation plan [\[REP2-043\]](#) sets out its purpose is to provide the framework for how potential impacts to *Sabellaria Spinulosa* reef would be managed and mitigated during the design and pre-construction activities of the proposed development. The applicant states that the document is intended to provide the basis for further discussions with relevant statutory advisors to agree the exact detail, including timings and methodologies of the activities required. The applicant notes that the final detailed plan would be produced post consent and submitted to the relevant authority for approval.

The ExA’s reasoning on *Sabellaria spinulosa* reef, supporting habitat and micro-siting

3.4.45. With regard to the potential wider presence of supporting habitat/reef across the ECC, outside of the SAC, the ExA notes that this matter remained an Amber issue for NE at deadline 6. NE’s Risk and Issues Log indicates through the Amber colour coding, that the issue does not make a material difference to the outcome of the decision-making process [\[REP6-153\]](#). No further information on the likely impact on the significance of effects was submitted by NE.

3.4.46. The ExA considers that the applicant’s commitment to identifying reef through pre-construction surveys and confirming relevant mitigation measures in consultation with the relevant authorities has been adequately secured via the wording of the Outline Biogenic Reef Mitigation Plan, which is a certified document in schedule 21 of the final dDCO [\[REP6-008\]](#) and under the terms of condition 13(1)(j) of schedule 11 of the dDCO [\[AS-042\]](#). The ExA is therefore satisfied that the control of impacts to protect *Sabellaria Spinulosa* reef from adverse effects in line with NPS-EN1 paragraph 5.4.54 have been adequately secured.

Use of HDD for the installation of the offshore export cables at landfall and the design of the exit pits

3.4.47. In Appendix C7 of its deadline 6 submission [\[REP6-147\]](#), NE requires clarification as to why the following mitigation has been removed from Chapter 9 Benthic and Intertidal Ecology Table 9.11 [\[REP5-020\]](#):

- “The installation of the offshore export cables at landfall will be undertaken by HDD. The exit pits will be designed to be a target 500m offshore of the Mean Low Water Springs (MLWS) mark.”

3.4.48. NE notes that ES Chapter 9 [\[REP5-020\]](#) continues to outline the commitment for the HDD exit pit 500m offshore and suggests this is reinstated in line with the commitment at point 39 of the Schedule of Mitigation [\[REP5-124\]](#).

The ExA’s reasoning on the use of HDD for the installation of the offshore export cables at landfall and the design of the exit pits

3.4.49. The ExA notes that whilst table 9.11 of ES Chapter 9 submitted at deadline 6 [\[REP6-018\]](#) no longer includes details on HDD at landfall, table 9.10 states “MDS

for intertidal temporary habitat disturbance is not included as the HDD exit pits will be designed to a target of 500m below MLWS and as such there will be no direct effects on the intertidal.” The use of HDD is also noted in paragraphs 168, 212, 230 and 250.

3.4.50. Furthermore, the ExA notes that the applicant’s Schedule of Mitigation [\[REP6-074\]](#) includes the commitment to the location of HDD exit pits a minimum of 500m from MLWS within point 39, noting that this is set out in the Outline CSIP [\[REP6-062\]](#) and secured within final dDCO condition 13(1)(d)(iii) of schedules 10 and 11. The ExA is therefore satisfied that the use of HDD for the installation of the offshore export cables at landfall and the design of the exit pits to be a target of 500m below MLWS is adequately secured.

3.4.51. The ExA does not consider it necessary for the commitment to be added back into table 9.10 as a drafting point.

Galahad gas platform

3.4.52. NE’s Appendix B4 to its deadline 6 submission [\[REP6-146\]](#) considers that the removal of the Galahad gas platform topsides and monopod, due to take place in 2026 may overlap with the construction of the proposed development. It states that this is located directly within the array area and notes that this has not been considered within the cumulative impact assessment for marine physical processes, marine water and sediment quality or benthic ecology chapters. NE advises that this needs to be considered in the relevant impact assessments and the relevant documents updated. NE notes this as a new issue at deadline 6 which is also reflected in NE’s deadline 6 Risk and Issues Log Appendix J6 [\[REP6-153\]](#).

The ExA’s reasoning on the Galahad gas platform

3.4.53. NE has highlighted this as an amber coded issue within the Risk and Issues Log when introducing it as a new issue at deadline 6 [\[REP6-153\]](#). The ExA has not been provided with any evidence from NE or any other IP that this issue would alter the applicant’s conclusions.

3.4.54. Nonetheless, as NE’s position on this issue [\[REP6-146\]](#) was submitted at the final deadline, the ExA appreciates that neither the applicant nor IPs have been able to submit their views on this issue into the examination. Consequently, the Secretary of State may wish to seek the views of the relevant IPs on this matter before reaching its conclusion.

Conclusions

3.4.55. The ExA considers that, by the close of the examination, other than those issues highlighted above, impacts on benthic ecology, intertidal, subtidal and coastal effects at the EIA level have either been resolved or have been indicated to be “*Not agreed (No material impact)*” in the final SoCG with the MMO [\[REP6-097\]](#) or are listed as amber colour-coded issues in NE’s Risk and Issues Log [\[REP6-153\]](#). As such, the ExA concludes that these matters would not discernibly change the applicant’s conclusions.

3.4.56. Issues allocated a red colour coding in NE’s final Risk and Issues Log [\[REP6-153\]](#) relating to benthic ecology, intertidal, subtidal and coastal effects are primarily in relation to potential effects at the HRA level which are considered in detail in appendix C of this recommendation. Aspects of these red colour coded issues

relating to EIA are cable protection placement locations and quantities; and cable protection within shallow nearshore waters.

- 3.4.57. At the EIA level, the ExA is reassured that through condition 13(1)(d)(iii) of schedules 10 and 11 of dDCO [\[AS-042\]](#) the MMO would have control over the acceptance of the final plans, which would include the quantities, extent and locations of cable protection. However, the ExA is unclear, based on the evidence submitted during the examination, what the impact would be on the significance of effects if the MDS parameters for cable protection measures within shallow nearshore waters, including the commitment to a maximum height of 0.35m are not adequately secured. However, as noted in the ExA's conclusion on cable protection as a whole, given that the WCS has been assessed it is unlikely to substantially alter the significance of effects. The Secretary of State may wish to consult with NE and the applicant on this matter to secure the nearshore MDS within the SPCMP.
- 3.4.58. The ExA considers that the applicant has had due regard to *Sabellaria spinulosa* reef outside of the designated site under Section 41 of the NERC Act 2006 and in line with NPS EN-1 paragraph 5.4.54.
- 3.4.59. The ExA is satisfied that the use of HDD for the installation of the offshore export cables at landfall and the design of the exit pits to be a target of 500m below MLWS is adequately secured. The ExA does not consider it necessary for the commitment to be added back into table 9.10 as a drafting point.
- 3.4.60. The Secretary of State may also wish to seek the views of relevant IPs on the Galahad Gas Platform, which was a new issue raised by NE at the end of the Examination.
- 3.4.61. The ExA has not been presented with any evidence that there would be any unacceptable impacts in EIA terms on benthic ecology, intertidal, subtidal and coastal effects arising from the proposed development.
- 3.4.62. Subject to the securing of the MDS for cable protection within the nearshore area, the ExA is satisfied that the proposed development is designed appropriately at this stage to minimise effects on benthic ecology, intertidal, subtidal and coastal effects, taking into account all constraints, thereby being in accordance with NPS EN-1 and EN-3 on this matter.
- 3.4.63. The ExA considers that the applicant has undertaken an acceptable approach to the assessment of the effects. Based on the evidence that has been presented in this examination, the ExA concurs with ES Chapter 7 Marine Physical Processes [\[REP4a-029\]](#), Chapter 8 Marine Water and Sediment Quality [\[REP5-017\]](#) and ES Chapter 9 Benthic and Intertidal Ecology [\[REP6-018\]](#) that the significance of residual effect from the proposed development on these matters would be no greater than minor adverse (not significant) from any phase of the development.
- 3.4.64. The ExA is satisfied that the proposed development is in accordance with NPS-EN1, NPS EN-3 and the Marine Policy Statement and all other relevant legislation and there are no other important or relevant considerations.

Taking all of this into account, the ExA concludes that the proposed development alone and cumulatively would give rise to a little negative weight in terms of its impact on benthic ecology, intertidal, subtidal and coastal effects within the overall [planning balance](#).

3.5. OFFSHORE AND INTERTIDAL ORNITHOLOGY

Introduction and Policy

3.5.1. This section examines the significance of effects of the proposed development on offshore and intertidal ornithology at the environmental impact assessment (EIA) level. The impacts on European sites and their qualifying features, including Flamborough and Filey Coast Special Protection Area (FFC SPA) and the Greater Wash SPA, both for the project alone and in-combination, are considered in more detail in chapter 4 and the Habitats Regulations Assessment (HRA) appendix of this Recommendation. The effects on wading species, including those associated with The Greater Wash SPA, are considered in the onshore ecology section of this Recommendation.

3.5.2. In the consideration of these matters, the Examining Authority (ExA) has had regard to:

- the requirements of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1), including sections 4.3 and 5.4
- the National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) including section 2.8
- UK Marine Policy Statement (2011)
- East Inshore and East Offshore Marine Plans (2014)
- any other important and relevant matters

The applicant's case

3.5.3. The applicant submitted a number of relevant documents in relation to offshore and intertidal ornithology at the EIA level to accompany the application, including the following:

- ES Chapter 12: Offshore and Intertidal Ornithology [[APP-067](#)] as updated by [[AS1-040](#)]
- Chapter 12 Offshore and Intertidal Ornithology Figures [[APP-100](#)]
- Chapter 12 Appendix 1 Intertidal and Offshore Ornithology Technical Baseline [[APP-162](#)] as superseded by [[AS1-064](#)]
- Chapter 12 Appendix 2 Collision Risk modelling [[APP-163](#)]
- Chapter 12 Appendix 3 Displacement Assessment [[APP-164](#)]
- Chapter 12 Appendix 4 Population Viability Analysis [[APP-165](#)]
- Chapter 12 Appendix 5 Migratory Collision Risk Modelling [[APP-166](#)]

3.5.4. The applicant stated that Environmental Statement (ES) Chapter 12 needs to be read in conjunction with ES Chapter 9: Benthic Subtidal and Intertidal Ecology, ES Chapter 10: Fish and Shellfish Ecology and ES Chapter 22: Onshore Ornithology.

3.5.5. Section 12.4 of ES Chapter 12 [[AS1-040](#)] indicates that the applicant's study area for offshore and intertidal ornithology includes the agreement for lease array area with a 4km buffer, the offshore export cable corridor (ECC) and the cable landfall area, as well as the areas for the provision of artificial nesting structures, offshore reactive compensation platforms (ORCPs) and biogenic reef. The intertidal area and related assessments consider important ornithological features using the habitat between mean high water springs (MHWS) and mean low-water springs, while recognising that some important ornithological features may nest or roost on the shore above the MHWS.

- 3.5.6. As summarised in table 12.4 of ES Chapter 12 and set out in more detail in the Technical Baseline Report [\[AS1-064\]](#), the existing project survey data comprises digital aerial survey (DAS) data between the years 2021 and 2023, intertidal bird surveys in winter 2022/23 and a kittiwake census on offshore structures in 2022 and 2023.
- 3.5.7. In addition to the European sites that are considered in appendix C of this Recommendation, the applicant also identified in section 12.4.3 of ES Chapter 12 [\[AS1-040\]](#) the following key sites of a nationally important designation:
- Flamborough Head Site of Special Scientific Interest (SSSI), which extends beyond the area of FFC SPA as it includes grassland and geological features. The notified bird interest features are breeding fulmar, northern gannet (hereafter referred to as gannet), black-legged kittiwake (hereafter referred to as kittiwake), guillemot, razorbill and puffin.
 - Hornsea Mere SSSI and SPA, that is a terrestrial wetland site noted for its large concentration of little gull that use the site in late Summer. Little gull is not an interest feature of the SSSI but is for the Greater Wash SPA.
- 3.5.8. The applicant's embedded mitigation is detailed in table 12.11 of [\[AS1-040\]](#) and included a reduction in the proposed array area from 500 square kilometres (km²) to 436km² to take account of bird densities and the inclusion of an 'air gap' of 40m relative to the mean sea level.
- 3.5.9. As set out in table 12.77 of ES Chapter 12 [\[AS1-040\]](#) the applicant assessed that the proposed development would give rise to effects on ornithology ranging from negligible, to minor adverse for most species considered. The applicant concluded that there would be no significant adverse residual effects for the project alone.
- 3.5.10. A summary of the potential cumulative effects assessed is provided in table 12.47 of ES Chapter 12 [\[AS1-040\]](#). In terms of cumulative effects, the applicant assessed the effects to be negligible for Sandwich tern and minor adverse for the other species considered. The applicant concluded in [\[AS1-040\]](#) that all residual impacts cumulatively would be not significant. However, it was noted that for disturbance and displacement to red-throated diver during the operation and maintenance phase this would be confirmed after population viability analysis (PVA) had taken place following the Preliminary Environmental Information Report.

Issues considered during the examination

- 3.5.11. During the course of the examination a number of new or updated documents were submitted by the applicant, with the key ones in terms of offshore and intertidal ornithology at the environmental impact assessment level including the following:
- ES Chapter 12: Offshore and Intertidal Ornithology [\[REP4a-011\]](#)
 - Levels of precaution in the assessment and compensation calculations for offshore ornithology [\[REP2-057\]](#) and [\[REP4a-048\]](#)
 - Consideration of bioseasons in the assessment of guillemot [\[REP2-058\]](#) and [\[REP4a-050\]](#)
 - Rates of displacement in guillemot and razorbill [\[REP2-059\]](#) and [\[REP4a-052\]](#)
 - MRSea Modelling for Offshore Ornithology [\[REP4-018\]](#)
 - ES Chapter 12: Offshore and Intertidal Ornithology [\[REP4a-011\]](#)
 - Appendix 12.1 Baseline Characterisation Report [\[REP4a-043\]](#)
 - Appendix 12.2 Collision Risk Modelling [\[REP4a-044\]](#)
 - Appendix 12.3 Displacement Assessment [\[REP4a-045\]](#)

- Appendix 12.4 Offshore Ornithology Population Viability Assessment [[REP4a-046](#)]
- Appendix 12.5 Migratory Bird Collision Risk Modelling [[REP4a-047](#)]
- Offshore In-Principle Monitoring Plan [[REP4a-073](#)] and [[REP6-054](#)]
- Madsen and Searle Papers (Further Commentary) [[REP5-153](#)]

3.5.12. The applicant's predicted mortalities were amended during the course of the examination as a result of changes to the proposed development that were accepted by the ExA, and certain methodological updates to reflect the position of Natural England (NE). Therefore, the final figures are presented in more detail later in this section.

3.5.13. Based on the comments raised by interested parties (IPs) and the ExA's review of the application and any subsequent documents, the key issues considered during the examination were as follows:

- the applicant's predicted impacts on offshore and intertidal species at the EIA level at the close of the examination
- the applicant's assessment methodology and levels of precaution in the assessment of effects
- the implications of Highly Pathogenic Avian Influenza (HPAI)
- the final conclusions of the applicant, Natural England and the Royal Society for the Protection of Birds (RSPB)

The applicant's predicted figures for offshore and intertidal species at the EIA level at the close of the examination

Changes to the submitted application – the introduction of an offshore restricted build area

3.5.14. Prior to the start of the examination, on 19 September 2024, the applicant submitted a suite of documents in response to relevant representations and to the ExA's rule 17 letter of 31 July 2024 [[PD-006](#)] and the ExA's rule 6 letter of 4 September 2024 [[PD-009](#)].

3.5.15. Within these submitted documents the applicant put forward changes to the proposed development that would consist of removing the northern option for the offshore ECC and the introduction of an offshore restricted build area (ORBA) in which no infrastructure protruding above the surface of the sea would be constructed. The ORBA would be introduced over the northern section of the array area, comprising an area that would be approximately 2km wide at the north-east corner and approximately 3.5km at the north-west corner. In total, the ORBA would cover an area of 71.3km², and would represent 16.4% of the proposed array area within which there would be no wind turbine generators or offshore platforms installed. A plan depicting the array area with the ORBA is provided in figure 7 of this Recommendation.

3.5.16. To accompany the proposed ORBA changes the applicant submitted an Environmental Report for the Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor [[PD1-081](#)] and revised Figures [PD1-982] and [[PD1-083](#)].

3.5.17. As set out in table 3.1 of [[PD1-081](#)], the applicant had previously consulted with a number of stakeholders, including NE, on the introduction of the ORBA. The applicant stated in [[PD1-001](#)] one of the reasons for the introduction of the ORBA was to provide additional mitigation to reduce impacts from the presence of the wind

turbine generators and offshore platforms on auk species, specifically guillemot and razorbill. The proposed changes were accepted into the examination by the ExA [PD-015]. In its deadline 3 (D3) response [REP3-066] NE welcomed the ExA's acceptance into the examination of the applicant's change request that included the ORBA.

3.5.18. The applicant calculated in [PD10-081] that the introduction of the ORBA would reduce the summed mean seasonal peak guillemot abundance from 37,653 birds to 23,586 birds. In terms of predicted mortalities for the project alone, the introduction of the ORBA was calculated by the applicant, based on a 50% displacement rate and 1% mortality rate, to result in 20.3 fewer annual mortalities for guillemot, 6.1 fewer annual mortalities for razorbill and an increase in 0.6 annual mortalities for puffin. For collision mortalities the applicant concluded in table 4.17 of [PD1-081] that the ORBA would increase the predicted annual kittiwake mortalities by 2.2, lesser black-backed gull annual mortalities would increase by 0.7 mortalities and gannet would decrease by 0.5 mortalities for collision risk and displacement combined.

3.5.19. As stated in [PD10-81], the applicant assessed that there would be no change to the predicted magnitude of effect and therefore the conclusions of the ES would remain valid and unchanged.

Updates to documents and changes to the submitted application

3.5.20. In Appendix F of its relevant representation (RR) [RR-045] NE noted that there were a number of errors in the documents that the applicant originally submitted, including the Technical Baseline Report [APP-162]. Also, the RSPB in its RR [RR-056] noted some gaps in survey data and raised concerns about certain aspects of the applicant's assessment methodology, including the use of macro-avoidance for gannet.

3.5.21. Prior to the start of the examination the applicant submitted an updated version of the Technical Baseline Report [AS1-064] which contained corrections and provided missing data that had been sought by both NE and the RSPB. The applicant provided documents to reflect the changes to the application as a result of the introduction of the ORBA and to correct certain errors, including typographical ones. At D4a the applicant submitted its final versions of a number of relevant documents including ES Chapter 12 [REP4a-011], the Offshore and Intertidal Ornithology Baseline Characterisation Report [REP4a-043], Collision Risk Modelling [REP4a-044] and Displacement Assessment [REP4a-045].

Final collision risk modelling figures - project alone

3.5.22. As a result of the ORBA, and as set out in table 12.43 of the updated ES Chapter 12 [REP4a-011] the final project alone mortality predictions for the species most affected, and based on the applicant's preferred methodological approach, for collision risk mortality during the operation and maintenance phase are as follows:

Table 1 Final collision risk modelling figures - cumulative

Species	Mean annual collision mortalities	Lower 2.5% confidence interval figure	Upper 97.5% confidence interval figure
Kittiwake	33.2	8.3	86.2
Great black-backed gull	4	0.0	15.0
Herring gull	2.9	0.0	11.8
Lesser black-backed	2.4	0.0	12.0
Sandwich tern	0.4	0.2	2.2
Gannet	1.7	0.2	22.5

3.5.23. The final predicted cumulative mortalities for collision risk for Tier 1 and Tier 2 projects, as set out in ES Chapter 12 [[REP4a-011](#)], and based on the applicant's preferred methodology for collision risk modelling, during the operation and maintenance phase are as follows:

- Kittiwake: 3,755.3 (which includes the 33.2 predicted mortalities from the proposed development)
- Great black-backed gull: 1,416 (which includes the 4 predicted mortalities from the proposed development)
- Herring gull: 1,015.6 (which includes the 2.9 predicted mortalities from the proposed development)
- Lesser black-backed gull: 689.3 (which includes the 2.4 predicted mortalities from the proposed development)
- Sandwich tern: 44.5 (which includes the predicted 0.4 mortalities for the proposed development, and also incorporates the updated avoidance rate of 0.991 as recommended by NE)
- Gannet: 518.6 (which includes the 1.7 predicted mortalities from the proposed development)

Migratory collision risk modelling

3.5.24. In addition, migratory collision risk has been considered in the Migratory Bird Collision Risk Modelling [[REP4a-047](#)]. Based on the mean population size and mean results from Migropath and 'broad front' modelling the worst-case scenario as set out in table 12.8 of [[REP4a-047](#)] assumes a 95% avoidance rate with the highest predicted project alone mortalities being as follows:

- Common Scoter: 16.26 mortalities at 95% avoidance rate (1.63 at a 99.5% avoidance rate)
- Curlew (Wintering): 11.28 at 95% avoidance rate (1.13 at 99.5% avoidance rate)
- Dunlin: 22.62 at 95% avoidance rate (2.27 at 99.5% avoidance rate)
- Knot: 21.11 at 95% avoidance rate (2.11 at 99.5% avoidance rate)
- Mallard: 88.02 at 95% avoidance rate (8.81 at 99.5% avoidance rate)
- Oystercatcher: 25.44 at 95% avoidance rate (2.55 at 99.5% avoidance rate)
- Pink-footed Goose: 27.10 at 95% avoidance rate (2.71 at 99.5% avoidance rate).

- 3.5.25. The applicant concluded in [\[REP4a-011\]](#) that in relation to migratory collision risk: *“Due to the low levels of increase to existing baseline mortalities the significance of effect is concluded to be negligible, which is not significant in EIA terms...”*

Final disturbance and displacement mortality figures – project alone

Construction phase

- 3.5.26. The applicant’s preference is to apply a 25% displacement rate and a 1% mortality rate for auk species to calculate disturbance and displacement mortalities for auks during the construction phase. However, NE recommends a 35% displacement rate and 2% mortality rate and these figures are also provided in brackets for guillemot and razorbill.

- Guillemot: 51.1 mortalities using 25% displacement and 1% mortality rates (173.0 mortalities using NE’s preferred rates)
- Razorbill: 30.6 mortalities (85.8 mortalities using NE’s preferred rates)
- Puffin: 2.7 mortalities
- Gannet: 3.9 mortalities
- Red-throated diver, construction phase: 0.9 mortalities in the array area (using 50% displacement and 1% mortality rates) and 0.1 mortalities in the area of the offshore ECC and ORCPs using 100% displacement and 1% mortality rates

Operation and maintenance phase

- 3.5.27. The relevant tables in ES Chapter 12 [\[REP4a-011\]](#) provide a matrix of figures for rates that range as high as 100% displacement and 100% mortality. However, in terms of disturbance and displacement mortality during the operation and maintenance phase the applicant’s preferred approach has been to apply a 50% displacement rate and a 1% mortality rate for auks, and this equates to the following predicted annual mortalities in total across all bioseasons for the proposed development alone for the array area plus a 2km buffer:

- Guillemot: 102.2 mortalities
- Razorbill: 61 mortalities
- Puffin: 5.4 mortalities
- Gannet: 7.8 mortalities (using a 70% displacement rate)
- Red-throated diver, 1.8 mortalities in the array area and 0.13 in the offshore ECC area using 100% displacement and 1% mortality rates

- 3.5.28. For comparison, NE has advocated a range-based approach to the assessment of disturbance and displacement mortalities. Using 70% displacement and a 2% mortality rate and based on the relevant tables in ES Chapter 12 [\[REP4a-011\]](#) would give the following predicted annual mortalities due to disturbance and displacement in total across all bioseasons for the project alone during the operation and maintenance phase:

- Guillemot: 345.9 mortalities
- Razorbill: 171.6 mortalities
- Puffin: 15.1 mortalities
- Gannet: 15.6 mortalities

Cumulative mortalities

- 3.5.29. The predicted cumulative mortality figures for both collision risk and displacement are provided and considered in more detail in the later section in relation to the conclusions on the significance of effects.

The ExA's reasoning on the applicant's predicted figures for offshore and intertidal species at the close of the examination

- 3.5.30. By the close of the examination the predicted mortalities for a number of bird species had been amended from those that had been contained in the originally submitted documents. This is due to the introduction of the ORBA, updated information, including from other projects, and the correction of certain errors.
- 3.5.31. The applicant has submitted figures for predicted mortality based on its preferred rates, for example 25% displacement and 1% mortality rates for auks during the construction phase and 50% displacement and 1% mortality for auks during the operation and maintenance phase. Where applicable, the applicant has also presented figures based on NE's preferred rates and provided matrices in table form that allow for a range of mortalities to be calculated.
- 3.5.32. There has been disagreement between the applicant and NE/ RSPB over certain aspects of assessment methodology that are applicable in EIA terms and over the levels of precaution that the applicant contends are built into the assessment methodology used. These matters are considered in subsequent sections of this Recommendation.
- 3.5.33. The ExA notes that in the final submitted versions of certain documents there remain some statistical errors. For example, in table 12.69 of [\[REP4a-011\]](#) the figures in the 5% mortality rate column for the cumulative annual displacement matrix for razorbill are incorrect, as these would instead equate to a 3% mortality rate. In addition, there are some remaining typographical errors such as in paragraphs 207 and 509 of ES Chapter 12 [\[REP4a-011\]](#). However, the ExA considers that any remaining errors would not be substantial enough to call into question the overall validity of the documents that have been submitted by the applicant into this examination.
- 3.5.34. Whilst there have been disagreements over the application of certain methodological considerations, the ExA has not been presented with any evidence that the predicted mortality figures for the project alone, as presented in the text and tables of ES Chapter 12 [\[REP4a-011\]](#), are incorrect. This is apart from the 5% mortality rate column of table 12.69. Therefore, the ExA accepts the overall validity of the figures that the applicant has submitted by the close of the examination.

The applicant's assessment methodology and levels of precaution in the assessment of effects

Assessment methodology

- 3.5.35. At the start of the examination there were a number of areas of disagreement between the applicant, NE and the RSPB over the assessment methodology the applicant used. As recorded in its Principal Areas of Disagreement Summary Statement (PADSS) (Table 6.1 of [\[RR-045\]](#)) initially NE did not agree with the applicant over the following methodological issues:
- apportioning of individuals to SPAs
 - bioseasons and their definition
 - proportion of birds assessed as adults
 - baseline mortality calculations
 - calculations for the scale of compensation required.

- 3.5.36. In addition, the applicant has raised what it considers to be elements of over-precaution in relation to the assessment of cumulative mortalities in [\[REP4a-011\]](#). Some of the above methodological concerns, such as apportioning of individuals to SPAs and compensation calculations, relate to HRA issues and will be considered in more detail in the HRA appendix of this Recommendation.
- 3.5.37. In the ExA's first written questions (ExQ1) OR1.2, directed to both NE and the RSPB, the ExA referred to table 1.1 of the Applicant's Response to the Rule 17 Letter dated 3 July 2024 [\[AS-013\]](#) and The Applicant's Responses to Relevant Representations [\[PD1-071\]](#). These documents presented a breakdown of what the applicant considered to be the key areas of disagreement on assessment issues. In ExQ1 OR1.2 the ExA questioned whether this had accurately captured all the outstanding areas of disagreement. The RSPB in [\[REP2-081\]](#) indicated that it was content that the applicant had accurately represented the areas of disagreement. NE in [\[REP2-095\]](#) set out in tabular form the issues and whether or not they had been resolved at that stage.
- 3.5.38. In its RR [\[RR-056\]](#) the RSPB considered that the applicant had not provided sufficient supporting methodological information, particularly in relation to the supporting background information for the DAS. The applicant responded to this in [\[PD1-071\]](#) and explained that the DASs it had undertaken exceeded the requirements set out in NE's guidance for characterisation surveys¹ and noted that NE had not raised issues in this regard. However, the RSPB maintained its concerns over this issue throughout the examination as recorded in the final Statement of Common Ground (SoCG) [\[REP6-099\]](#).
- 3.5.39. The applicant maintained that the use of mean values for displacement assessment outputs was sufficiently precautionary. Nevertheless, in [\[PD1-088\]](#) mean peak, lower 95% confidence interval (CI) and upper 95% CI bioseason counts for gannet, guillemot, razorbill and the impact values based on the mean and upper confidence intervals were provided.
- 3.5.40. At D3 NE advised in [\[REP3-070\]](#) that the applicant had provided an EIA project alone assessment following NE's preferred approach and using its recommended parameters. NE did go on to state in [\[REP3-070\]](#) that the nocturnal activity factor used for collision risk modelling for common tern and little gull was not that which it recommended.
- 3.5.41. In response, the applicant in [\[REP4-108\]](#) stated that as agreed through the evidence plan process it had used a broadfront migratory collision risk model for common tern and little gull. The applicant considered this to be more appropriate due to the presence of these species being restricted to migration periods and the nocturnal activity factors advised by NE have been used.
- 3.5.42. In ExQ1 OR1.5 the ExA requested the applicant submit an updated assessment utilising NE's preferred method for calculating the proportion of adults from DAS data; namely adult proportions of 0.90 for gannet, 0.91 for kittiwake and 0.66 for lesser black-back gull. This was provided by the applicant in its updated Offshore

¹ Natural England (2024) Offshore Wind Marine Environmental Assessments: Best Practice Advice for Evidence and Data Standards. Phase I: Expectations for pre-application baseline data for designated nature conservation and landscape receptors to support offshore wind applications

and Intertidal Ornithology Apportioning [\[REP4-033\]](#) and is noted by NE in Annex 2 of [\[REP5-166\]](#) as being an agreed matter.

- 3.5.43. In Annex 2 of its Appendix F5 submission at D5 [\[REP5-166\]](#) NE provided an updated summary of all the disagreements for offshore ornithology assessment methodology. This indicated that by D5 the only area of outstanding disagreement in EIA terms arose over the need to consider the potential longer-term impacts of HPAI. The implications of the HPAI outbreak are discussed later on in this section.

Macro-avoidance of offshore wind farms by gannets

- 3.5.44. An outstanding area of disagreement between the applicant and the RSPB was over the application of a reduction of 70% to the baseline densities inputted into the gannet collision risk modelling to account for macro-avoidance. This was raised as an issue by the RSPB in its relevant representation [\[RR-056\]](#) in which the RSPB did not agree that a macro-avoidance rate should be applied to the baseline densities with collision risk modelling then carried out using the 'all gull' avoidance rate.
- 3.5.45. The RSPB considered that this was applying avoidance twice in the calculation of impacts and it disagreed with this approach for two specific reasons. Firstly, it does not take into account the likely seasonal variation in macro-avoidance. Secondly, by basing the 'within wind farm' avoidance rate on the 'all gull' rate, it assumes that gannets will have the same 'within wind farm' reactive flight response as gulls. The RSPB contended in [\[RR-056\]](#) that this assumption is very unlikely to be met, as gannets have much lower flight manoeuvrability than gulls, and this would result in a lesser ability to make rapid reactions and consequently have a greater risk of collision.
- 3.5.46. In response the applicant in [\[AS-013\]](#) and [\[PD1-071\]](#) stated that it had applied the macro-avoidance rate for gannet to historical projects as agreed with NE through the evidence plan process as well as recently published statutory nature conservation body guidance on the modelling of collision risk produced by the Joint Nature Conservancy Council (JNCC)².

Impact of the Offshore Reactive Compensation Platforms on Red-Throated Diver and Common Scoter

- 3.5.47. In its RR [\[RR-042\]](#) NE raised concerns that the presence of up to two ORCPs within the offshore ECC would have the potential to cause disturbance and displacement to red-throated diver and common scoter populations during the operation and maintenance phase of the proposed development.
- 3.5.48. The applicant responded, for example in [\[PD1-071\]](#) and [\[REP4a-011\]](#), that there was no evidence that static structures such as the ORCPs would cause ongoing disturbance to red-throated diver. For red-throated diver this matter remained an ongoing area of disagreement until D4a when NE commented in [\[REP4a-137\]](#), albeit within the context of the red-throated diver feature of the Greater Wash SPA, that although additional displacement could arise due to the presence of ORCPs "*...due to the likely displacement effect being exerted by the existing windfarms, this*

² Joint Nature Conservancy Council *et al* (2024) 'Joint advice note from the statutory nature conservation bodies (SNCBs) regarding bird collision risk modelling for offshore wind developments'

is unlikely to represent a substantial additional pressure on the distribution of divers within the SPA.”

- 3.5.49. NE indicated in Annex 2 of [\[REP5-166\]](#) that for both common scoter and red-throated diver the assessment methodology for assessing impacts on these species due to vessel impacts and the presence of the ORCPs during the operation and maintenance phase had been resolved to its satisfaction.

Levels of precaution in the assessment of effects

- 3.5.50. During the examination the applicant presented figures relating to both its and NE's preferred methodological approaches. In addition, at D2 the applicant submitted the following documents that argued its case regarding the levels of precaution that it considered had been built into its assessment of effects using both its and NE's preferred approaches:

- Levels of precaution in the assessment and compensation calculations for offshore ornithology [\[REP2-057\]](#), superseded by [\[REP4a-048\]](#)
- Consideration of bioseasons in the assessment of guillemot [\[REP2-058\]](#), superseded by [\[REP4a-050\]](#)
- Rates of displacement in guillemot and razorbill [\[REP2-059\]](#), superseded by [\[REP4a-052\]](#)

- 3.5.51. The main thrust of the applicant's argument in [\[REP2-057\]](#), and as updated by [\[REP4a-048\]](#), is that when taken together the various precautions for aspects of the overall assessment methodology create levels of precaution that are unrealistic in terms of the predicted effects of the proposed development on bird mortalities. The applicant contends that this would then be magnified further in the consideration of cumulative impacts.

- 3.5.52. Some of the elements of precaution that the applicant considered in [\[REP4a-048\]](#), such as bioseasons, the use of sabbatical rates and apportioning, relate to HRA matters and will therefore be commented upon in the HRA appendix. However, some of the applicant's arguments related to matters that underpin the wider assessment methodology rather than being HRA-specific and are therefore considered in the following EIA context.

Precautions in collision risk modelling

- 3.5.53. For EIA considerations the applicant argued in [\[REP4a-048\]](#) that each of the individual parameters used in collision risk modelling (CRM) “*incorporate a substantial amount of precaution.*” In summary, the applicant contends in [\[REP4a-048\]](#) that the following elements of precaution apply in the CRM that it has used;

- Flight speed: the applicant has used statutory nature conservation body (SNCB) advised flight speed values which can vary from speeds derived from site specific tracking data and are likely to overestimate collisions. The applicant contends that the recommended flight speed for kittiwake is precautionary and likely to result in an overestimate of collisions.
- Flight height: The CRM uses generic flight height data which the applicant argues is likely to over-estimate flight heights and thereby increase the number of birds at risk of collision.
- Nocturnal activity: The applicant states that data from FFC SPA indicate that the nocturnal activity factor for birds from this colony is generally lower than the rate advocated by NE.

- Bird size and wingspan: The applicant argues that the measurements used to inform CRM are likely to be larger since species such as kittiwake do not usually fly with their wings fully outstretched.
- Avoidance rates: The applicant has used a generic avoidance rate for all gulls of 0.993 as recommended by the SNCBs. However, the applicant argues that using species specific avoidance rates would reduce the predicted collisions for kittiwake by 55% and for great black-black gull by 85%.

Precautions in displacement assessment

- 3.5.54. The applicant argues in [\[REP4a-048\]](#) that a 50% displacement rate for both guillemot and razorbill should be considered to be precautionary, rather than the range of up to 70% displacement advocated by NE. In addition, the applicant argues that the use of a 1% mortality rate would be suitably precautionary based on the APEM (2022) study³.
- 3.5.55. The applicant also commented on the inclusion of both birds on the water and birds in flight that are captured by means of DAS. The applicant contends that at long ranges from colonies barrier effects are unlikely to be encountered. Furthermore, for species such as gannet that are considered in terms of both displacement and collision mortalities there is likely to be an over-estimation of impacts.
- 3.5.56. In its further written question (ExQ2) OR1.2 the ExA asked both NE and the RSPB to respond to the contentions the applicant had made regarding levels of precaution inherent in the assessment methodology.
- 3.5.57. NE responded in [\[REP4-139\]](#) and noted that a precautionary approach is appropriate to take account of the “...*evidence-poor, high-uncertainty environment within which the assessments are carried out...*” NE went on to note the difficulties in comparing between different studies due to the varying parameters that have been used such as any buffer to the array area and the size of the wind turbines.
- 3.5.58. In Appendix K2 [\[REP4-143\]](#) NE responded to ExQ2 OR 1.2 by stating that it advocates a range-based approach to considering impacts and requests that applicants present, for example, a range of displacement and mortality rates. NE contends that this better reflects the level of uncertainty inherent in the assessment of impacts and thereby reflects the purpose of the precautionary principle.
- 3.5.59. The RSPB responded to ExQ2 OR 1.2 in [\[REP4-146\]](#) in relation to the applicant’s submission of alleged levels of precaution in the assessment methodology. The RSPB argued in [\[REP4-146\]](#) that the assessment of mortality rates may be under-precautionary as it does not account for either any effects of breeding success or for potential chick mortality through poor attendance caused by additional displacement-related stress in adults.
- 3.5.60. The RSPB concluded in [\[REP4-139\]](#) that: “*There are uncertainties at each of the stages of assessment, whether relating to data collection, which is subject to inherent variability and biases in measurement or modelled impact, which will always be a simplified abstraction of reality. All these elements of precaution must be considered in the assessment.*”

³ APEM (2022) ‘Review of evidence to support auk displacement and mortality rates in relation to offshore wind farms’ *APEM Scientific Report*

- 3.5.61. The applicant provided in Appendix 2 of The Applicant's Response to Action Points recorded at ISH5 and ISH6 [\[REP4a-120\]](#) a worked through example for guillemot that it considered demonstrated the amount of precaution inherent in NE's preferred assessment methodology. However, the ExA in its rule 17 letter [\[PD-028\]](#) asked the applicant to clarify how the figures in the sixth column of table1 of Appendix 2 [\[REP4a-120\]](#) had been derived. The applicant responded in [\[REP6-115\]](#) that the percentage increase should be 1,862% rather than 1,962%.

The ExA's reasoning on the applicant's assessment methodology and levels of precaution in the assessment of effects

The applicant's assessment methodology

- 3.5.62. Where differences occurred, such as the applicant's preferred displacement rate of 50% and 1% mortality rate for auks during the operation and maintenance phase, the applicant provided figures based on both its and NE's preferred methodology. In addition, the applicant provided updated information to resolve methodological disagreements over for example the adult apportioning for gull species in the DAS. The applicant's agreement to provide figures based on NE's preferred methodological approach as well as its own preference is welcomed by the ExA.
- 3.5.63. This means that by the close of the examination, as reported in Annex 2 of [\[REP5-166\]](#) the only area of outstanding disagreement with NE in regard to methodology, notwithstanding disagreement over the degree of precaution inherent in such methodology, was over the consideration of the impacts of HPAI. This matter is considered later in this section.
- 3.5.64. By the close of the examination the RSPB's main area of disagreement was concerned with the application of a 70% reduction in the baseline figure to account for a macro-avoidance rate for gannet. It remained the RSPB's view that the application of such a standardised rate would not account for seasonal variations in the gannet population.
- 3.5.65. As noted by the applicant in [\[PD1-071\]](#), this approach had been agreed with NE. Furthermore, the ExA notes that the JNCC guidance on collision risk modelling, that was published in August 2024, recommends the use of the 'all gull' rate for gannet and also states that: "*Consideration should be given to applying a macro-avoidance rate in addition to this.*" Taking this into account, the ExA considers that the use of a macro-avoidance rate and the application of the 'all gull' rate for gannet is appropriate.
- 3.5.66. The RSPB also did not agree with what it considers to be a lack of supporting methodological detail alongside the DAS outputs and the adequate consideration of potential biases. However, the ExA is not aware of specific concerns being raised by NE in this regard and notes the applicant's contention that its DAS methodology has exceeded the requirements of the NE guidance. Consequently, the ExA concurs with the applicant on this matter.
- 3.5.67. Therefore, the ExA considers that the applicant has undertaken an acceptable methodological approach to the assessment of the effects of the proposed development alone and cumulatively.

Levels of precaution

- 3.5.68. Whilst the applicant has used NE's advocated methodological approach it has also for some species such as auks provided figures based on its preferred approach. At

D2 the applicant introduced the argument in [REP2-057] that the assessment methodology that it has used, and even more so for NE's preferred methodology, both contain levels of precaution that are added together for project alone assessment and which would then be further compounded for cumulative assessments.

- 3.5.69. This generated a degree of ongoing dispute between the applicant, NE and the RSPB which included the citation of two recent studies: Masden *et al* 2014⁴ and Searle *et al* 2023⁵ to support the arguments being put forward. At the request of the ExA at issue specific hearing 6 (ISH 6) these two studies were submitted into the examination as Appendix F of [REP4a-120] with further commentary on the application of the precautionary principle being provided by the applicant in [REP5-153]. The Searle *et al* study found there to be "...considerable uncertainty associated with [offshore renewable energy development] ORD assessments for marine birds, with current methods failing to quantify uncertainty in a scientifically robust, evidence-based manner."
- 3.5.70. The ExA has some sympathy with the applicant's argument that the current assessment methodology contains elements of over-precaution. This may particularly be the case when assessments for other projects, taken over different times and potentially applying different methodologies, have been combined to provide mortality figures to be used for the cumulative assessment of effects. Having said that, the ExA also gives credence to RSPB's argument that in some instances there may be under-precaution as well as over-precaution.
- 3.5.71. The ExA notes that NE's consideration of certain matters such as the macro-avoidance rate for gannet has shifted as updated evidence from existing offshore wind farms has been provided. The ExA would highlight the need for a robust real-world evidence base from multiple projects to continue to be accrued to reduce the existing amount of uncertainty over the effects of offshore wind development on offshore ornithology.
- 3.5.72. Overall, based on the evidence submitted into this examination, the ExA is minded to agree with the views expressed by NE and the RSPB on this matter. The ExA considers that due to the inherent degree of uncertainty in the assessment of long-term impacts on seabird populations, a decline in some seabird populations and the need to apply a precautionary approach, the current methodological approach is, for the time being, the approach to be favoured. The ExA is not persuaded that the applicant has provided a sufficiently robust argument that would justify a substantial divergence from the advice proffered by NE, and which has been accepted by the Secretary of State for other recent projects. In reaching this conclusion the ExA is mindful of the guidance in paragraph 2.8.316 of NPS-EN3 which states that the Secretary of State should take into account the views of the relevant statutory advisors.

Highly Pathogenic Avian Influenza

- 3.5.73. In its RR [RR-056] the RSPB raised concerns about the recent outbreak of HPAI and the ramifications of this for the proposed development. NE in [RR-045] agreed

⁴ Masden, McCluskie, Owen and Langston (2014) 'Renewable energy developments in an uncertain world: The case of offshore wind and birds in the UK', *Marine Policy*, 51

⁵ Searle, O'Brien, Jones, Cook, Trinder, McGregor, Donovan, McCluskie, Daunt and Butler (2023) 'A framework for improving treatment of uncertainty in offshore wind assessments for protected marine birds' *ICES Journal of Marine Science* (2023)

that no adjustment was needed to the applicant's baseline characterisation data but also indicated that some consideration should be given to the longer-term potential of HPAI to reduce the resiliency of populations.

- 3.5.74. The applicant responded to this in [\[PD1-071\]](#) and stated that it has applied a precautionary approach to HPAI since the impacts have been estimated from at sea populations measured pre-HPAI (which should be larger populations), and assessed against recent population counts at SPAs post-HPAI which would consider populations impacted by HPAI. The applicant contends that for any populations that have been impacted by HPAI, this would provide a precautionary assessment.
- 3.5.75. Also, in [\[AS-013\]](#) the applicant noted that in its aerial surveys, which covered a 30-month period from March 2021 to August 2023, it did not find evidence of the densities of birds within the survey data being affected by HPAI. Consequently, the applicant's position as reported in [\[AS-013\]](#) was that NE had agreed that there was no requirement to adjust the baseline data to account for HPAI.
- 3.5.76. By the close of the examination, as reported in the final signed and dated SoCG with the RSPB [\[REP6-099\]](#) there was still disagreement between the parties regarding the wider ramifications of the HPAI outbreak. The RSPB's final position as stated in [\[REP6-099\]](#) maintained the views it had set out in its RR, and stated that HPAI remains an ongoing threat to seabird populations and that smaller populations will be more vulnerable to such events.
- 3.5.77. In its final D6 submission [\[REP6-148\]](#) NE noted that the long-term impacts of HPAI on seabird populations are not yet fully known. NE considered there to be a need to have regard for the potential long-term impacts of HPAI on seabird populations when drawing conclusions and undertaking integrity judgements.

ExA's reasoning on Highly Pathogenic Avian Influenza

- 3.5.78. The HPAI outbreak was raised as an issue at the start of the examination by both the RSPB and NE in terms of the consideration of the longer-term implications for the proposed development and other projects. The RSPB contends in [\[REP6-099\]](#) that surveys carried out after the latest seabird census indicate a decline in numbers across multiple species. Also, as reported by NE in [\[REP6-149\]](#), the HPAI outbreak is not yet finished.
- 3.5.79. The ExA concurs with the views expressed by the RSPB and NE of the need to consider the longer-term implications of events such as the HPAI outbreak and that such events give added weight for an overall precautionary approach when assessing impacts of development proposals on seabird populations within a wider, long-term context. As such, the ExA considers that this adds credence to the positions of NE and the RSPB in the broader arguments that have been made during this examination regarding the extent to which precaution should be inherent in the methodology for assessing effects.
- 3.5.80. Nevertheless, the ExA agrees with the applicant that disease outbreaks form part of the overall rise and fall of seabird populations within a given time period. Furthermore, the ExA notes the lack of evidence from the aerial surveys conducted by the applicant that HPAI had affected the baseline data used by the applicant to inform its assessments. As reported by the applicant in [\[PD1-071\]](#) and confirmed by NE in [\[REP6-149\]](#) NE also agrees with the applicant's view that no adjustment is needed to the baseline characterisation to account for the impacts from HPAI. The

ExA has no reason to disagree with the views of the applicant and NE on this. Therefore, the ExA considers that the applicant's assessment of HPAI within its overall methodological approach is appropriate.

The applicant's, NE's and the RSPB's final EIA conclusions for the project alone and cumulatively

- 3.5.81. In The Applicant's Closing Statements [\[REP6-121\]](#) the applicant concluded that with suitable mitigation measures in place the proposed development would have no likely significant effects on offshore and intertidal ornithology on either a project alone or cumulative basis.
- 3.5.82. The RSPB's submissions during the latter part of the examination were concerned with HRA matters.
- 3.5.83. In table 12 of its D6 submission response [\[REP6-149\]](#) NE stated that there would be no significant adverse impact for any bird species arising from the proposed development alone. However, NE considered in [\[REP3-070\]](#) and [\[REP6-149\]](#) that it was unable to rule out a significant adverse impact cumulatively with other plans and projects for the following species: gannet, kittiwake, guillemot, razorbill, great black-backed gull and red-throated diver.
- 3.5.84. As NE stated in [\[REP3-070\]](#) it had already identified significant adverse impacts for the aforementioned 6 species from North Sea offshore windfarms irrespective of whether the proposed development and other Round 4 projects are included in the cumulative totals. Although in [\[REP3-070\]](#) NE reserved its position on certain species pending an updated cumulative assessment, in its final submission [\[REP6-149\]](#) NE considered there to be a significant adverse impact cumulatively for only these same 6 species.
- 3.5.85. The applicant responded to NE in [\[REP4-108\]](#) by stating that it had undertaken a rigorous EIA in consultation with NE and had used a highly precautionary approach/methodology. As set out in [\[REP4a-011\]](#) the applicant has estimated the potential magnitude of impact by calculating the increase in baseline mortality when compared against the largest UK North Sea and English Channel biologically defined minimum population scales (BDMPS) and biogeographic population.
- 3.5.86. Where the predicted cumulative impacts would be greater than a 1% increase in baseline mortality at either the BDMPS or the biogeographic scale the applicant then undertook a population PVA. For the PVA the applicant used the counterfactual of population growth rate and the counterfactual of final population size for any species. The applicant contended that there would be no significant adverse impacts at the EIA scale, either for the project alone or cumulatively.

RED-THROATED DIVER – ASSESSMENT OF CUMULATIVE IMPACTS

- 3.5.87. For red-throated diver during both the construction and operation and maintenance phases the applicant has in [\[REP4a-011\]](#) used a 90% displacement rate and 1% mortality rate, rather than the use of a 100% displacement rate and 10% mortality rate recommended by NE.
- 3.5.88. Table 12.56 indicates the projects and parameters that have been used in the cumulative assessment of effects on red-throated diver. Based on 100% displacement and 10% mortality the applicant estimates in ES Chapter 12 [\[REP4a-011\]](#) that there would be 64 cumulative annual red-throated diver mortalities during

the construction phase, which would include the 3 mortalities from the proposed development based on these rates.

- 3.5.89. The applicant has estimated the overall magnitude of impact by calculating the increase in baseline mortality when compared against the largest UK North Sea and English Channel BDMPS of 13,276 individuals with a baseline mortality of 3,023 individuals per annum and a biogeographic population of 27,000 individuals with a baseline mortality per annum of 6,148.
- 3.5.90. With the addition of 64 additional annual red-throated diver mortalities cumulatively the applicant calculated the construction phase effects would give rise to a 2.117% increase in baseline mortality at the BDMPS level and a 1.040% increase in baseline mortality considering the biogeographic population.
- 3.5.91. For the operation and maintenance phase the applicant has calculated in [\[REP4a-011\]](#) that the predicted cumulative displacement mortality for red-throated divers based on a 90% to 100% displacement rate, and 1% to 10% mortality, is estimated as being between 41.6 – 458. The applicant calculates that at the UK Southwest North Sea BDMPS, the potential cumulative loss of 42 to 458 individuals would represent a 1.376% to 15.151% increase in baseline mortality. At the biogeographic scale, this addition of 42 to 458 individuals would represent a 0.676% to 7.440% increase in baseline mortality.
- 3.5.92. The applicant contends in [\[REP4a-011\]](#) that the use of a 100% displacement rate and 1% mortality rate is more realistic, and this would equate to an annual total of 45.8 red-throated diver mortalities. The applicant goes on to set out a number of factors that it argues would lead to these assessments for red-throated diver being over-precautionary. These include the degree of displacement declining away from the boundaries of offshore windfarms, an element of double counting due to some buffer zones overlapping and that the majority of the predicted annual mortality occurs during the autumn and spring migration periods, where the potential consequences of displacement are expected to be much lower due to birds being present for a brief amount of time.

GUILLEMOT – ASSESSMENT OF CUMULATIVE IMPACTS

- 3.5.93. As reported in ES Chapter 12 [\[REP4a-011\]](#) the applicant assessed that for the operation and maintenance phase using its preferred displacement rate of 50% and 1% respectively and applied to a guillemot population of 737,709 then the annual cumulative loss is estimated to be 3,686.5 individuals. At the UK North Sea and English Channel BDMPS scale, the potential cumulative loss of 3,687 guillemot would represent a 1.283% increase in baseline mortality and at the biogeographic scale, this would increase baseline mortality by 0.636%.
- 3.5.94. Using NE's preferred approach, the cumulative total of guillemot at risk of displacement would be 741,587. With the application of a displacement rate of 70% and mortality rate of 2% this would equate to a predicted 10,382.2 annual cumulative mortalities [\[REP4a-011\]](#). At the UK North Sea and English Channel BDMPS and using NE's preferred approach to the population calculation, the potential cumulative loss of 10,382 guillemot would represent a 3.613% increase in baseline mortality and at the biogeographic scale, this would increase baseline mortality by 1.791%.
- 3.5.95. The applicant undertook a PVA, as reported in [\[REP4a-046\]](#) and calculated that using a 70% displacement and 2% mortality rate there would be a reduction in

population growth rate of 0.571% for the BDMPS and 0.285% at the biogeographic scale. The applicant went on in [REP4a-011] to cite a high level of precaution that it argues is built into the displacement assessment, including the use of mean peak estimates, as well as the fact that PVA does not consider density dependence and the guillemot population is modelled as a closed population with no emigration or immigration.

- 3.5.96. The applicant stated in [REP4a-011] that: *“Based on this PVA analysis, even considering the realistic worst-case scenario of 70% displacement and 2% mortality, the resulting reduction in annual population growth rate at both the BDMPS and biogeographic population scales is expected to be indistinguishable from natural fluctuations in the population.”* Therefore, the applicant concluded in [REP4a-011] that the significance of effect is considered to be minor, which is not significant in EIA terms.

RAZORBILL - ASSESSMENT OF CUMULATIVE IMPACTS

- 3.5.97. The applicant has reported in [REP4a-011] that the annual cumulative total of razorbills at risk of displacement would be 217,162. The applicant in [REP4a-011] applied a displacement rate of 50% and a 1% mortality rate, from which the annual cumulative loss during the operation and maintenance phase is estimated as 1,085.8 individuals. The applicant calculates in [REP4a-011] that at the UK North Sea and English Channel BDMPS, the potential cumulative loss of 1,086 razorbills would represent a 1.409% increase in baseline mortality and a 0.489% increase at the biogeographic scale.
- 3.5.98. However, the ExA notes that table 12.69 of [REP4a-011] presents a matrix for cumulative mortalities and using a 70% displacement rate and a 2% mortality rate would produce a cumulative annual total of 3,040 razorbill mortalities. The applicant undertook PVA and based on 70% displacement and 2% mortality the reduction in population growth rate was calculated to be 0.605% at the BDMPS and 0.215% at the biogeographic scale. The applicant also notes that based on a 50% displacement rate and 1% mortality rate the reduction in population growth rate would be 0.216% at the BDMPS and 0.075% at the biogeographic scale.
- 3.5.99. The applicant contends that this would be indistinguishable from the natural fluctuations in the population. The applicant concludes in [REP4a-011] that: *“Given a magnitude change of minor, and a sensitivity to disturbance and displacement of moderate, the significance of effect is therefore concluded to be minor, which is not significant in EIA terms.”*

GANNET – ASSESSMENT OF CUMULATIVE IMPACTS

- 3.5.100. As indicated in paragraph 533 of ES Chapter 12 [REP4a-011], based on a 70% displacement rate and a 1% mortality rate, during the operation and maintenance phase the annual cumulative loss is estimated to be 413.4 individuals due to displacement and 520.2 individuals due to collision risk, making a combined annual total of 934 gannet mortalities cumulatively. As reported in [REP4a-011], based on the largest UK North Sea and English Channel BDMPS of 456,299 and a baseline mortality of 85,145 individuals per annum, the addition of 934 mortalities per annum would result in a 1.097% increase in baseline mortality. Based on the biogeographic population of 1,180,000 individuals and a baseline mortality of 220,188, the addition of 934 additional mortalities would result in a 0.424% increase in baseline mortality [REP4a-011].

- 3.5.101. As the cumulative impacts are predicted to exceed 1% of the baseline mortality at the BDMPS population scale, further assessment via PVA has been carried out. As presented in table 12.13 of the updated Offshore Ornithology Population Viability Assessment [REP4a-046] and referenced in [REP4a-011] the cumulative assessment for gannet for combined collision risk and displacement for the BDMPS predicts a difference in the population growth rate of 0.242% when assessed against the baseline scenario.
- 3.5.102. The applicant notes in ES Chapter 12 [REP4a-011] that the UK gannet population has more than doubled from 113,006 pairs in 1970 to 293,161 pairs in 2013-15. The applicant considers that the cumulative impacts of the proposed development would be highly unlikely to impact the trend of the increasing regional gannet population. The applicant considers this to be of negligible magnitude at the UK North Sea and English Channel BDMPS and biogeographic scale overall. The applicant concluded the significance of effect for gannet cumulatively from combined collision and displacement mortalities to be minor adverse.

KITTIWAKE – ASSESSMENT OF CUMULATIVE IMPACTS

- 3.5.103. The applicant predicted in [REP4a-011] that the potential cumulative loss of 3,755.3 kittiwake during the operation and maintenance phase would represent an increase of 2.837% relative to the baseline mortality rate at the UK North Sea and English Channel BDMPS and 0.467% at the biogeographic scale.
- 3.5.104. As the predicted impact would exceed 1% of the baseline mortality at the BDMPS a PVA was carried out with the results being presented in table 12.76 of [REP4a-011]. The applicant concluded in [REP4a-011] that: *“At the BDMPS population scale, the cumulative mortalities predicted would result in a reduction in population growth of 0.530% relative to a baseline scenario. These predicted levels of change, especially considering the precaution in-built within the assessment, are considered to be sufficiently small that they would be indistinguishable against natural fluctuations in the populations.”*
- 3.5.105. The applicant concludes in ES Chapter 12 [REP4a-011] that the potential cumulative impacts for kittiwake resulting from collision risk is considered to be of a minor magnitude at both the BDMPS and the biogeographic scale overall. This combined with a moderate sensitivity to collision means that the applicant has considered the significance of effect would be minor adverse, which is not significant in EIA terms.

BLACK-BACKED GULL – ASSESSMENT OF CUMULATIVE IMPACTS

- 3.5.106. As reported in ES Chapter 12 [REP4a-011] the applicant predicts that the cumulative loss of 1,420 great black-backed gull due to collision risk would represent an increase of 16.034% relative to the baseline mortality rate at the UK North Sea and English Channel BDMPS and an increase in baseline mortality by 6.236% at the biogeographic scale.
- 3.5.107. At the BDMPS population scale, the predicted cumulative impacts would result in a 1.671% reduction in population growth rate relative to a baseline scenario, and a 0.650% reduction based on the biogeographic population. Although the comparative reduction in growth rate exceeds 0.5% at both the BDMPS and biogeographic population scales, the applicant argues that the resulting impact is not considered significant when accounting for the over-precautionary nature of the assessment.

- 3.5.108. However, for some elements of the applicant's assessment in [\[AS1-040\]](#), as superseded by [\[REP4a-011\]](#), the applicant's conclusion of a minor adverse significance for cumulative effects for great black-backed gull, which is not significant in EIA terms, is based on using different parameters than those advocated by NE. Also, the applicant's conclusion takes into account what the applicant considers to be some of the elements of over-precaution that have previously been discussed, such as nocturnal activity factor.

The ExA's reasoning on the applicant's, NE's and the RSPB's final EIA conclusions for the project alone and cumulatively

- 3.5.109. The ExA appreciates that the concerns expressed by both NE and the RSPB are primarily centred upon the potential HRA effects of the proposed development rather than those at the EIA level. Neither NE nor the RSPB provided specific comments on the applicant's updated assessment in [\[REP4a-011\]](#) beyond NE in [\[REP6-149\]](#) maintaining its view that it was unable to rule out a significant adverse impact cumulatively.
- 3.5.110. In addition, NE in table 13 of [\[REP6-149\]](#) provided a summary table of predicted impacts based on its preferred approach to collision, displacement and combined assessments for relevant species. The figures NE has presented in [\[REP6-149\]](#) are similar to those presented by the applicant, albeit that NE has assessed a range of predicted impacts for auks from 30% to 70% displacement and 1% to 10% mortality.

Project alone impacts

- 3.5.111. NE considers that there would not be any significant adverse impacts arising from the project alone. The ExA has no reason to disagree with this. Therefore, the ExA concurs with the applicant's assessment that there would be either a minor or a negligible adverse impact which would not be significant in EIA terms for all the species that it has assessed.

Cumulative impacts

- 3.5.112. **Red-throated diver:** For red-throated diver the predicted cumulative impacts during both the construction and operation and maintenance phases would be above 1% of the baseline mortality. The applicant has cited what it considers to be elements of over-precaution in NE's recommended methodology that would reduce the cumulative impacts to what it considers to be a minor adverse effect.
- 3.5.113. Whilst there might be an inherent element of over-precaution in the cumulative assessment methodology for red-throated diver, the ExA is not persuaded that this can be defined such that it would necessarily equate to a substantial reduction in the assessed mortalities. As previously noted, the ExA is cognisant of the need to apply a precautionary approach when assessing impacts on seabird populations, including for cumulative impacts. The ExA notes the applicant's argument in [\[REP4a-011\]](#) that the population of red-throated diver in the south-west North Sea may be increasing, since the population of red-throated diver in the Outer Thames Estuary SPA has shown an increase.
- 3.5.114. Given the degree of uncertainty and the relatively small size of the red-throated diver population, the ExA considers that a high degree of precaution is needed when considering the cumulative impacts on this species, particularly as it exhibits a high degree of sensitivity to disturbance from human activities as acknowledged in [\[REP4a-011\]](#). The ExA agrees with the views expressed by NE that the proposed development would be likely to give rise to a significant adverse impact on red-

throated diver during both the construction and the operation and maintenance phase.

- 3.5.115. Whilst the applicant has not specially assessed the decommissioning phase, it stated in paragraph 373 of [\[REP4a-011\]](#) that for the purposes of assessment the impacts for decommissioning activities within the array area are deemed to be similar to, but no worse than, construction impacts. Therefore, the ExA does not consider that sufficiently robust evidence has been presented to enable it to be able to rule out a significant adverse impact cumulatively on red-throated diver for the decommissioning phase.
- 3.5.116. **Guillemot:** The ExA acknowledges the applicant's calculation in [\[REP4a-011\]](#) that for guillemot cumulatively the application of PVA would result in a predicted reduction in the population growth rate of 0.571% and 0.283% at the BDMPS and biogeographic scales respectively, using NE's preferred methodology. This, combined with the fact that guillemot populations are considered to have declined by 11% in the approximately 20 years since 2000, leads the ExA to conclude that there would be a significant adverse impact cumulatively for guillemot.
- 3.5.117. **Razorbill:** The applicant has calculated that the predicted 3,040 cumulative mortalities (using 70% displacement and 2% mortality rates) would result in a reduction in population growth rate of 0.605% at the BDMPS and 0.210% at the biogeographic scale when PVA has been applied. The ExA notes from the paragraph 447 of [\[REP4a-011\]](#) that the razorbill population has increased by 18% between the Seabird 2000 and Seabirds Count. Taking all of this into account, it is the ExA's view that the reduction in the population growth rate at the BDMPS, combined with a population that is increasing but not substantially, means that there would be a significant adverse effect cumulatively for razorbill.
- 3.5.118. **Gannet:** In regard to gannet, the ExA notes the applicant's calculations that the predicted combined annual loss due to collision and displacement mortality cumulatively of 934 individuals would represent an increase in baseline mortality of 1.097% at the BDMPS; which after PVA has been undertaken is calculated as being a difference in the population growth rate of 0.242% for the BDMPS.
- 3.5.119. These figures, combined with the substantial increase in the gannet population, lead the ExA to agree with the applicant's conclusion that cumulatively there would be a minor adverse effect on gannet which is not significant in EIA terms.
- 3.5.120. **Kittiwake:** The ExA notes that there has been a national decline in the kittiwake population between the Seabird 2000 and Seabirds Count as reported in [\[REP4a-011\]](#). The potential cumulative 3,755 kittiwake mortalities due to collision risk during the operation and maintenance phase would represent an increase in 2.837% relative to the baseline mortality. At the BDMPS population scale the applicant calculated that the cumulative mortalities predicted would result in a reduction in the population growth rate of 0.530% relative to a baseline scenario.
- 3.5.121. The ExA has no reason to disagree with the applicant's assertion that it may well be the case that the principal factor in the decline in kittiwake populations is due to changes in prey availability resulting from climate change rather than the advent of offshore windfarms. Notwithstanding this, the ExA does not consider that it has been presented with sufficient evidence to counter the view that additional population decreases caused by offshore wind farms would represent anything other than a significant adverse impact cumulatively to an already declining kittiwake population.

- 3.5.122. **Great black-backed gull:** For great black-backed gull the ExA notes that the applicant's estimated cumulative impacts at the BDMPS population scale after PVA has been carried out would be a 1.671% reduction in population growth rate relative to the baseline scenario and a 0.65% reduction based on the biogeographic population. This also needs to be set within the context of a national decline of 52% between the Seabird 2000 and Seabirds Count (a period of approximately 20 years), as cited by the applicant in [\[REP4a-011\]](#). As with kittiwake, the applicant has cited a number of elements of what it considers to be over-precaution in the collision risk modelling for great black-backed gull, including the nocturnal activity rate and the use of density independence in the PVA modelling.
- 3.5.123. For the reasons already considered previously, the ExA considers that there is a need to apply a precautionary approach to the assessment of impacts on seabirds. The ExA acknowledges that whilst there may indeed be an element of over-precaution, especially for the consideration of cumulative impacts, this is difficult to quantify with certainty. Therefore, the ExA considers that this would not justify diverging substantially from the methodological approach that has been recommended by NE for great black-backed gull, especially in light of a declining population. The ExA is therefore unable to rule out a significant adverse impact cumulatively on great black-backed gull for the operation and maintenance phase.

ExA's final considerations on significance

- 3.5.124. Therefore, based on the evidence that has been presented in this examination, the ExA agrees with the applicant's conclusions that there would not be any significant adverse impact cumulatively for gannet. However, for red-throated diver cumulatively during the construction, operation and maintenance, and decommissioning phases, and cumulatively for kittiwake, great black-backed gull, razorbill and guillemot during the operation and maintenance phase the ExA considers that it has been unable to rule out a significant adverse impact.

Conclusions

- 3.5.125. The ExA appreciates that the main outstanding areas of disagreement for offshore and intertidal ornithology are in relation to HRA matters. These are considered in more detail in chapter 4 and appendix C of this Recommendation.
- 3.5.126. At the EIA level, as reported in [\[REP6-121\]](#) the applicant provided updated figures to account for errors and omissions in the originally submitted documents and to reflect changes to the application introduced to provide additional mitigation in the form of the introduction of the ORBA and revisions to the offshore ECC route. In addition, the applicant provided figures for predicted mortalities based on NE's preferred methodology. These measures are welcomed by the ExA.
- 3.5.127. The ExA therefore considers that it has been presented with sufficient information to make an informed judgment. Consequently, it is the ExA's view that the proposed development would accord with paragraph 5.4.17 of NPS EN-1 1.4.7. and with paragraphs 2.8.240 to 2.8.244 and 2.8.315 to 2.8.316 of NPS EN-3 in respect of the information that should be provided in the environmental statement.
- 3.5.128. In terms of the significance of effects on offshore and intertidal ornithology the ExA concludes the following:
- There would be no significant adverse impacts on offshore and intertidal ornithology arising from the proposed development alone. For all species

considered for assessment by the applicant the predicted project alone impacts would be either minor adverse or negligible.

- The ExA is unable to rule out significant adverse impacts when considered cumulatively with other plans and projects for the following species:
 - red-throated diver (construction, operation and maintenance, and decommissioning phases),
 - guillemot (operation and maintenance phase)
 - razorbill (operation and maintenance phase)
 - kittiwake (operation and maintenance phase)
 - great black-backed gull (operation and maintenance phase)

- 3.5.129. Apart from these aforementioned 5 species, for the other relevant bird species that have been assessed in detail by the applicant the ExA considers that the cumulative impacts would be either minor adverse or negligible. This would represent a little weight against the Order being made.
- 3.5.130. In terms of securing mitigation, paragraph 5.4.42 of NPS EN-1 requires that significant harm to biodiversity should be avoided, and mitigation should be provided with any compensation as a last resort. The ExA is aware that mitigation in the form of the ORBA and a seasonal restriction for construction works for the ORCPs within the Greater Wash SPA has been proposed in addition to the mitigation in the originally submitted application, such as raising the draft height of the turbine blades. The ExA considers that the proposed mitigation measures in EIA terms have been adequately secured in the draft Development Consent Order [[AS-042](#)].
- 3.5.131. Where relevant, the impacts on species at a HRA level are considered in appendix C of this Recommendation. This includes the matter of compensation as part of the applicant's derogation case, and this has not been specifically factored into the EIA considerations for these species. Consequently, the ExA considers that on balance the proposed development would comply with the relevant sections of NPS EN-1, NPS EN-3 and the UK Marine Policy Statement in relation to the impacts on offshore and intertidal ornithology at the EIA level.
- 3.5.132. Taking all of this into account, the ExA concludes that, subject to the mitigation measures that have been secured in the dDCO [[AS-042](#)] the project alone effects on offshore and intertidal ornithology at the EIA level would carry a little negative weight.
- 3.5.133. In addition, the ExA concludes that significant adverse effects cumulatively cannot be ruled out on 5 species (red-throated diver, guillemot, razorbill, kittiwake and great black-backed gull). Therefore, whilst the negative effects of the project alone would be reasonably modest, it is the ExA's conclusion that, due to the significant adverse impacts cumulatively on these 5 species that the ExA has identified, the cumulative effects on offshore and intertidal ornithology would carry great weight against making the Order within the overall [planning balance](#).

3.6. MARINE MAMMALS

Introduction and policy

3.6.1. This section examines the significance of effects of the proposed development on marine mammals at the environmental impact assessment (EIA) level. The impacts on European sites and their features, including the harbour porpoise feature of the Southern North Sea Special Area of Conservation (SNS SAC), the harbour seal feature of the Wash and North Norfolk Coast SAC and the grey seal feature of the Humber Estuary SAC, both for the project alone and in-combination, are considered in more detail in the Habitats Regulations Assessment (HRA) appendix of this Recommendation.

3.6.2. In the consideration of these matters, the Examining Authority (ExA) has had regard to:

- the requirements of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) including section 4.3
- the National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) including section 2.8
- UK Marine Policy Statement (2011)
- East Inshore and East Offshore Marine Plans (2014), including Policy FISH1
- any other important and relevant matters

The applicant's case

3.6.3. The applicant submitted a number of relevant documents for marine mammals to accompany the application, notably the following:

- Environmental Statement (ES) Chapter 11: Marine Mammals [[APP-066](#)]
- Marine Mammals Figures [[APP-099](#)]
- Marine Mammals Technical Baseline [[APP-160](#)]
- Underwater Noise Assessment [[APP-161](#)]
- Outline Marine Mammal Mitigation Protocol (MMMP) for Piling Activities [[APP-279](#)] as updated by [PD1 044]
- Outline MMMP for Unexploded Ordnance Clearance [[APP-280](#)] as updated by [[PD1-046](#)]
- Outline Vessel Management Plan [[APP-294](#)] as updated by [[AS1-105](#)] and [[PD1-064](#)]
- In Principle Southern North Sea Special Area of Conservation Site Integrity Plan (SNSSAC SIP)
- Offshore In-Principle Monitoring Plan [[APP-276](#)]
- Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Underwater Noise Modelling Report [[PD1-085](#)]
- Interim Population Consequences of Disturbance Modelling Report [[PD1-094](#)]

3.6.4. As reported in section 11.4 of ES Chapter 11 [[APP-066](#)] the marine mammal study area has been defined at two spatial scales. The Management Unit (MU) study area provides a wider geographic context and consists of the following:

- Harbour porpoise: North Sea MU
- White-beaked dolphin: Celtic and Greater North Seas MU
- Bottlenose dolphin: Celtic and Greater North Seas MU
- Grey seals: Southeast England MU and Northeast England MU
- Harbour seals: Southeast England MU

- 3.6.5. In addition, the project study area consists of the project-specific aerial surveys which took place within the Agreement for Lease array area plus a 4km buffer.
- 3.6.6. As detailed in table 11.2 of ES Chapter 11 [\[APP-066\]](#) pre-application consultation and Expert Topic Group (ETG) meetings took place with key stakeholders to refine the scope of assessment and discuss key concerns. The 24 impacts scoped in for assessment are set out in section 11.5.1 of ES Chapter 11 [\[APP-066\]](#) and these include permanent threshold shift (PTS) and temporary threshold shift (TTS) for pile driving and unexploded ordnance (UXO) clearance during the construction phase and vessel collision or disturbance during the construction, operation and decommissioning phases.
- 3.6.7. The embedded mitigation is set out in table 11.8 of ES Chapter 11 and includes the provision of a Project Environmental Management Plan (PEMP) and maximum hammer energy limits to be used for pile driving of 6,600 kilojoules (kJ) for monopiles and 3,500kJ for pin-piles. Other mitigation measures include the implementation of a MMMP for Piling, a MMMP for UXO clearance and a Vessel Management Plan that would be based on the outline versions of these respective plans.
- 3.6.8. Table 11.77 of ES Chapter 11 [\[APP-066\]](#) contains a summary of the predicted effects on marine mammals. For the project alone the applicant has assessed that there would be “*No significant adverse residual effects*” for all potential construction, operation and maintenance and decommissioning effects that have been assessed. The project alone effects assessed included pile driving PTS and TTS, pile driving disturbance, vessel collision and indirect impacts on prey. As stated in [\[APP-066\]](#) all assessed effects for the proposed development alone ranged from negligible to minor adverse.
- 3.6.9. For cumulative impacts the applicant has assessed in ES Chapter 11 [\[APP-066\]](#) the effects as being either minor adverse or negligible in regard to either disturbance from underwater noise or disturbance from vessels. The applicant concluded that there would be no significant adverse residual effects cumulatively on marine mammals

Revised and new documents submitted by the applicant

- 3.6.10. During the course of the examination the applicant submitted new documents and revisions to previously submitted documents, including the following:
- ES Chapter 11: Marine Mammals [\[REP5-023\]](#) and [\[REP6-020\]](#)
 - Marine Mammals Revised Figures as requested in Natural England’s RR [\[REP3-048\]](#)
 - Marine Mammals Volume 2 Figures [\[REP5-052\]](#)
 - Underwater Noise Assessment [\[REP5-070\]](#)
 - Offshore In-Principle Monitoring Plan [\[REP4a-073\]](#) and [\[REP6-054\]](#)
 - Outline MMMP for Piling Activities [\[REP2-035\]](#), [\[REP4-084\]](#), [\[REP4a-098\]](#) and [\[REP6-064\]](#)
 - Outline MMMP for UXO Clearance [\[REP2-037\]](#), [\[REP4a-100\]](#) and [\[REP6-066\]](#)
 - In-Principle SNS SAC SIP [\[REP4-086\]](#), [\[REP4a-106\]](#) and [\[REP6-068\]](#)
 - Interim Population Consequences of Disturbance Modelling Report [\[REP4-099\]](#) and [\[REP4a-106\]](#)
 - Interim Population Consequences of Disturbance Modelling Report Cumulative [\[REP6-026\]](#)

- 3.6.11. The revisions to previously submitted documents took account of proposed changes, including the introduction of the offshore restricted build area (ORBA) and certain refinements to the assessment methodology in light of comments received by interested parties (IPs). However, as reported in [\[PD1-081\]](#) the applicant considered that as a result of the ORBA the number of marine mammals impacted would be less for the north-east location but the conclusions for auditory injury would remain the same. Furthermore, the applicant's assessment of the significance of effects in the final version of ES Chapter 11 [\[REP6-020\]](#) remained the same as for the original version of ES Chapter 11.

Issues considered during the examination

- 3.6.12. Based on the comments raised by interested parties (IPs) and the ExA's review of the application documents, the key issues considered during the examination were as follows:

- UXO clearance
- the applicant's assessment methodology
- mitigation measures

UXO clearance

- 3.6.13. Throughout the examination the applicant has taken the view that matters relating to UXO clearance would be dealt with via a separate licence and would therefore sit outside of the examination process for this DCO.

- 3.6.14. The MMO noted in [\[RR-042\]](#) that UXO clearance was not considered in any of the Schedules to the dDCO but that an Outline MMMP for UXO Clearance has been submitted. The applicant responded in its Response to Relevant Representations [\[PD1-071\]](#) that: *"Whilst the impacts from unexploded ordnance (UXO) clearance have been assessed within the relevant chapters of the Environmental Statement, the Applicant is not seeking consent at this stage for the investigation of and clearance of UXO due to the degree of uncertainty regarding the number of UXO which may need to be cleared. Such activities are therefore not included within the scope of the licenced activities ..."*

- 3.6.15. The applicant also stated in [\[PD1-071\]](#) that prior to the commencement of offshore construction operations a marine licence application would be made to the MMO for the investigation of potential UXO and clearance of confirmed UXO and a final MMMP for UXO clearance would be submitted based on the best available evidence and best practice at that time.

The ExA's response on UXO clearance

- 3.6.16. The MMO indicated in [\[REP1-056\]](#) that it was content with the applicant's approach in this regard, and the ExA has not been presented with any substantive reason to disagree with this.

- 3.6.17. The ExA acknowledges that there are some unresolved concerns around UXO clearance that have been raised by NE, for example in [\[REP6-148\]](#). However, because of the agreed approach of dealing with UXO clearance through a separate licensing process, the ExA does not intend to consider in detail any outstanding areas of disagreement pertaining to UXO clearance and their possible impacts on marine mammals that have been referenced in representations from interested parties. Furthermore, some concerns that have been raised, such as the use of passive acoustic monitoring during inclement weather, share a degree of

commonality with those relating to piling operations and are therefore considered in that context later on in this section.

The applicant's assessment methodology

- 3.6.18. At the start of the examination, as detailed in Appendix E of its relevant representation (RR) [\[RR-045\]](#), NE raised concerns about the following methodological issues:
- The need for, and application of, population modelling, for example using interim Population Consequences of Disturbance (iPCoD) modelling, to better understand the impacts of the proposed development on marine mammals.
 - The use of the average annual density figures for harbour porpoise.
 - Underwater noise modelling and the use of TTs-onset thresholds as a proxy for disturbance.
- The application of population modelling
- 3.6.19. In Appendix E of its RR [\[RR-045\]](#) NE did not agree with the applicant's conclusion of "*not significant*" for scenarios which have a medium sensitivity and medium magnitude. These assessment conclusions related to PTS from UXO clearance for harbour porpoise, piling PTS for harbour porpoise and minke whale, and cumulative impact from piling and UXO disturbance on harbour seal. NE recommended that, in order to justify its conclusions, the applicant should use population modelling techniques such as iPCoD to quantitatively assess whether these scenarios would have a significant impact at the population level in the long term.
- 3.6.20. NE considered that the iPCoD modelling was necessary as a tool to support the applicant's assessment impact conclusions in order to narrow some of the evidence gaps regarding the relationship between marine mammal ecology, sound disturbance and the population impacts [\[REP1-060\]](#). However, NE also recognised in [\[REP1-060\]](#) that iPCoD modelling makes many assumptions and caution should always be taken when interpreting the outputs. Despite this, it was NE's view in [\[REP1-060\]](#) that: "*... the model can be used as a tool alongside other methods for assessing the long-term population level impacts of disturbance, the results of the iPCoD modelling should not be viewed in isolation or solely dictate the final significance conclusion.*"
- 3.6.21. Furthermore, NE considered in [\[REP3-069\]](#) that "*... although the model can be used as a tool alongside other methods for assessing the impacts of disturbance, it does not mean the results of the modelling should dictate the final significance conclusion.*"
- 3.6.22. The applicant submitted its iPCoD Modelling Report for the project alone [\[PD1-094\]](#) and, following NE's request, this was updated at D4 [\[REP4-099\]](#) to include the application of upper 95% confidence interval (CI) data and the inclusion of median values in addition to the mean. This was in response to comments made by NE, as reported in NE's response to the ExA's First Written Question MM1.5 [\[REP2-074\]](#). The initial iPCoD Modelling Report [\[PD1-094\]](#) concluded that there would be no population level effect for marine mammals and the magnitude score for disturbance from piling would be "*Low*". This assessment was maintained in the final version of the iPCoD Modelling Report [\[REP4a-106\]](#).
- 3.6.23. In relation to the need for, and efficacy of, cumulative iPCoD modelling, in The Applicant's Response to the Report on the Implications for European Sites (RIES)

[REP5-149] the applicant stated that: *“The Applicant is awaiting confirmation from Natural England that iPCoD is not required to support the cumulative assessment.*

- 3.6.24. The applicant went on to explain that it: *“... has considered the potential to run cumulative iPCoD. In order to run a cumulative iPCoD model, detailed piling schedules for every project included in the cumulative assessment would be required. The Applicant does not have access to these. Without reliable piling schedules for each project included in the cumulative modelling, there are too many uncertainties and a lack of data, and thus it is not realistically practicable to carry out such modelling.”*
- 3.6.25. Notwithstanding these aforementioned reservations, at D6 the applicant provided an iPCoD Modelling Report (Cumulative) [REP6-026], which is referenced by the applicant as Appendix 11.3. In [REP6-026] the applicant found that: *“... the predicted impacts from cumulative pile driving activities do not result in population-level effects. For harbour porpoise, 18 years after the modelled piling ends, the mean impacted population size is 98.8% of the unimpacted population size. The population growth of the impacted population remains stable, at the level of population size just after piling stops. The modelled decline is, therefore, not considered to be evidence of a population-level effect. For both species of seal, the impacted population size remains the same as the unimpacted population size, and thus disturbance from piling at the Project cumulatively with the other OWFs is predicted to not result in a population level effect.”*
- 3.6.26. The applicant went on to state in [REP6-026] that for the levels of cumulative disturbance modelled, there would be no significant effect at a population level. It was the applicant’s contention that the results align with magnitude definition of “Low,” in EIA terms, which meant that temporary behavioural effects may occur, but survival and reproductive rates are unlikely to be affected in a way that would alter population trajectories. The applicant considered in [REP6-026] that its analysis, which was based on the best available scientific data and methodologies, provided a robust basis for evaluating the possible cumulative impacts of the proposed development.
- 3.6.27. The final SoCG between the applicant and NE for marine mammals [REP6-092] is only in draft form and is not signed or dated. As such, it is the ExA’s view that little weight can be given to this document.
- 3.6.28. On 28 March 2025, NE provided advice to the applicant through its Discretionary Advice Service. This advice is contained in Annex 1 of NE’s D6 Appendix E4 submission [REP6-148]. In this advice NE commented that it did not support the applicant’s method of defining significance from the iPCoD modelling results for the project alone. NE was of the view that other threats which impact populations, such as bycatch, prey availability and impacts from shipping, were not included in the iPCoD modelling.
- 3.6.29. The efficacy of the submitted iPCoD modelling was not an issue covered in the agreed and signed final SoCG with the MMO [REP6-097]. In The Applicant’s Closing Statements [REP6-121] the applicant argued that: *“...that cumulative iPCoD modelling is not required in order for the conclusions of no likely significant effects and no AEoI to be reached in the ES and the RIAA and therefore this matter is not material to the determination of the application.”*

The use of average annual density figures

- 3.6.30. In its assessment of effects on marine mammals the applicant's use of average annual density figures was questioned by NE [\[RR-045\]](#). NE considered that the average summer density for harbour porpoise of 2.63 individuals per square km (km²) should be used to reflect the importance of this area during the summer.
- 3.6.31. The submitted iPCoD Modelling Report [\[PD1-094\]](#) provided an assessment from piling using both the Small Cetaceans in European Atlantic waters and the North Sea (SCANS) estimate that was used in ES Chapter 11 [\[APP-066\]](#) and NE's preferred summer density estimate. In its D2 Risk and Issues Log [\[REP2-094\]](#) NE noted that this information had been provided and confirmed its satisfaction with the applicant's approach on this matter.
- Underwater noise modelling and the use of Temporary Threshold Shift-onset thresholds as a proxy for disturbance
- 3.6.32. The MMO in its RR [\[RR-042\]](#) considered that it was not appropriate to use TTS-onset thresholds as a proxy for disturbance. A revised Underwater Noise Modelling Report [\[PD1-085\]](#) was submitted which took account of the ORBA and presented revised figures based on the updated north-east location. In addition, the applicant submitted its Marine Mammals Revised Figures [\[REP3-048\]](#) which provided worst case behavioural disturbance contours for grey seal and harbour seal and took account of the ORBA.
- 3.6.33. By the close of the examination NE in [\[REP6-148\]](#) maintained its view that its preferred summer density figure for harbour porpoise of 2.63 per km² should be used for the impact assessment of PTS and TTS for harbour porpoise in order to demonstrate a worst-case scenario, and not just for disturbance. However, this matter was not referenced in its final Risk and Issues Log [\[REP6-153\]](#).
- 3.6.34. The applicant had responded to this in [\[PD1-071\]](#) and contended that: *"While the Applicant has provided results using the average summer density for harbour porpoise (2.63 individuals /km²) as requested by Natural England, it is important to re-iterate that there is no evidence that the density estimate within the Outer Dowsing survey area is applicable beyond the boundary of the survey area, and thus there is no evidence that it is applicable for use for much wider ranging impacts such as TTS and disturbance from piling that extend considerable distances beyond the survey area."*
- 3.6.35. In the MMO's final D6 submission [\[REP6-134\]](#) no specific concerns regarding the applicant's underwater noise modelling methodology were raised.

The ExA's reasoning on the applicant's assessment methodology

- 3.6.36. By the close of the examination, as recorded in its D6 submission [\[REP6-148\]](#), NE was not in agreement with the applicant over certain aspects of assessment methodology for marine mammals. This included concerns about the applicant's ability to draw conclusions on the significance of effects on marine mammal populations. The main area of methodological disagreement lies with NE's view that the iPCoD modelling did not take account of other potential threats that impact marine mammal populations, such as bycatch, prey availability and impacts arising from shipping activity, and that cumulative iPCoD modelling had not been undertaken.
- 3.6.37. The issue of iPCoD modelling is not an outstanding concern that has been listed by the MMO [\[REP6-134\]](#) and neither is it specifically recorded in the final SoCG with

the MMO [REP6-097] in which all matters in relation to marine mammals are marked as either being agreed or “*Not agreed (no material impact)*”.

- 3.6.38. The ExA acknowledges that the views of NE are more ambiguous on this matter for the project alone than those of the MMO. It appears to the ExA that NE has not objected to the iPCoD modelling itself but NE argues that other threats which also impact populations are not included in the model. As such NE does not support the applicant’s method of defining significance from the iPCoD modelling results for the project alone.
- 3.6.39. For the project alone effects the ExA considers that the most recent version of the iPCoD Modelling Report [REP4-099] has assisted in the quantification of population level effects. Nevertheless, the concerns raised by NE are noted and the ExA agrees that iPCoD modelling may not necessarily provide a complete picture of effects at the population level. However, the ExA considers that the applicant has provided sufficient evidence overall to support its conclusions.
- 3.6.40. As the cumulative iPCoD modelling was only submitted at the final deadline (D6) neither NE nor the MMO have had chance to comment on the cumulative iPCoD Modelling Report.
- 3.6.41. The ExA is aware of the conclusions reached by the applicant in the iPCoD Modelling Report (Cumulative), which is referenced by the applicant as Appendix 11.3 [REP6-026]. In the absence of any substantive evidence to the contrary, the ExA currently has no reason to disagree with the conclusions drawn by the applicant in [REP6-026] that for all three species (harbour porpoise, grey seal and harbour seal), the predicted impacts from cumulative pile driving activities do not result in population-level effects.
- 3.6.42. However, as this was only submitted at the final deadline the ExA appreciates that neither NE nor the MMO have been able to submit their views on this assessment into the examination.
- 3.6.43. Based on the evidence available to the ExA at the close of this examination, the ExA is satisfied that the applicant has utilised appropriate methodology and undertaken an appropriate range of assessment in order to inform its assessment of effects on marine mammals. The ExA is aware that this is linked with the use of, and commitment to appropriate mitigation measures and this issue is considered in the next section. The ExA also acknowledges that the SoS may wish to seek the views of the MMO and NE on the iPCoD Modelling Report (Cumulative) [REP6-026].

Mitigation measures

Noise abatement systems

- 3.6.44. An ongoing area of disagreement during the course of the examination has been the use of mitigation measures and in particular the commitment to using noise abatement systems (NAS), such as bubble curtains, as a secondary mitigation measure to reduce the impacts of piling activities on marine mammals.
- 3.6.45. Both the MMO and NE argued that the applicant had not made a sufficiently strong commitment to the use of NAS. It was NE’s belief, as stated in [REP5-165], that the applicant should consider making a commitment to the use of NAS prior to consent to allow projects sufficient time to finance, source and implement NAS into their projects prior to the start of construction.

- 3.6.46. NE also commented, for example in Appendix E of [\[RR-045\]](#) that there may not be sufficient time allowed by the applicant for the procurement of mitigation methods prior to construction. This concern would appear to have arisen from a previous project for which an applicant has had difficulty in procuring the NAS in sufficient time.
- 3.6.47. The Defra Policy Paper ‘Reducing Marine Noise’ was published in January 2025. The MMO in its D4a response [\[REP4a-133\]](#) welcomed the reference made by the applicant in the Outline MMMP for Piling Activities to the Defra Policy Paper and acknowledged that the types of NAS might not be known at present, although the MMO did consider that reference to the types of NAS could be made.
- 3.6.48. Furthermore, in paragraph 2.10.11 of [\[REP4a-133\]](#) the MMO advised that best endeavours relates to wildlife licensing for disturbance to protected species and is therefore a different legal test. NE in [\[REP5-165\]](#) commented that its concern was to ensure that the applicant had made a sufficient commitment to the use of NAS but that it did not expect a particular technology to be decided on at this stage.
- 3.6.49. Throughout the examination the applicant has consistently contended, for example in its response to the ExA’s first and second written questions [\[REP2-051\]](#) and [\[REP4-107\]](#), that it has made sufficient commitment to the use of NAS. This included the additional wording that the applicant has: “... *committed to use best endeavours to deliver noise reductions through the use of primary and/or secondary noise reduction methods for pile driving activity.*” This additional wording was added at D4 to the Outline MMMP for Piling [\[REP4-084\]](#) and similar wording was incorporated into the In-Principle SNS SAC SIP [\[REP4-086\]](#).
- 3.6.50. Following ISH6 the applicant submitted an updated version of the Outline MMMP for Piling Activities [\[REP4a-098\]](#) and the In Principle SNS SAC SIP [\[REP4-086\]](#). These documents were updated again at D6. In its D6 Outline MMMP for Piling Activities [\[REP6-064\]](#) the applicant deleted its previous reference to the use of best endeavours.
- 3.6.51. At deadline 6 the applicant revised the wording of paragraph 17 of the Outline MMMP for Piling Activities [\[REP6-064\]](#) to read as follows: “*In order to minimise the risk of any auditory injury to marine mammals from underwater noise during pile driving, there are a suite of mitigation measures that the Applicant could implement for the Project piling activities in addition to the commitment to deploy primary and/or secondary noise reduction methods (Noise Abatement Systems) for pile driving activity, unless otherwise agreed with the MMO.*”
- 3.6.52. Also, in paragraph 44 of [\[REP6-064\]](#) the following revised wording has been provided: “*The Applicant has committed to deploying primary and/or secondary noise reduction methods (Noise Abatement Systems) for pile driving, unless otherwise agreed with the MMO. The Applicant considers that the commitment it has made is now above what is required by the Defra (2025) policy...*”
- 3.6.53. In the final SoCG with the MMO [\[REP6-097\]](#) the wording of the Outline MMMP for UXO Clearance [\[REP6-066\]](#) is noted as being an agreed matter. However, there is no specific commentary regarding the wording for NAS in the Outline MMMP for Piling Activities [\[REP6-064\]](#).
- 3.6.54. At the final deadline matters had finally moved on such that the applicant, the MMO and NE had reached a degree of agreement based on draft wording to be included in the dDCO. As recorded by the MMO in [\[REP6-134\]](#) this agreement in principle

arose through a meeting that took place between these parties prior to D6 which agreed that the following wording should be included on the face of the DML for a condition in schedule 10:

3.6.55. “ (j) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the outline marine mammal mitigation protocol (piling), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body, to be submitted to the MMO at least six months prior to the commencement of piling activities. The marine mammal mitigation protocol must include consideration of deployment of noise mitigation systems or noise abatement systems that will be utilised to manage sounds from those piling activities. The marine mammal mitigation protocol must include full details and justification for the mitigation chosen or excluded for deployment.”

3.6.56. This wording has been included in condition 13(1)(f) of schedule 10 of the dDCO [AS-042]. It is also contained in condition 13(1)(f) of schedule 11 and condition 11(1)(e) of schedules 12 to 15 (the offshore artificial nesting structures). This is the exact wording that the MMO had requested in [REP6-134], and which the MMO reported had also been agreed with NE. As recorded in [REP6-145] NE considers that this wording “...does go some way to committing to NAS in the way Natural England has requested and is a significant step towards resolving the issue.”

The application of passive acoustic monitoring

3.6.57. NE also raised concerns about certain aspects of the wording of the Outline MMMP for Piling Activities. One of NE’s main concerns, as reported in [REP1-060] centred around the use of passive acoustic monitoring (PAM) to supplement visual monitoring during periods of poor visibility to allow for the continuation of piling in inclement conditions. In its final Risk and Issues Log [REP6-153] NE stated that it could only agree to the use of piling in inclement weather if it could be demonstrated that the applicant would use a series of PAM devices that would ensure the whole mitigation area would be covered.

3.6.58. The applicant responded, for example, in [PD1-071] that it had updated its Outline MMMP for Piling Activities to make reference to the updated Joint Nature Conservancy Council (JNCC) Guidance⁶ on the use of PAM. At the close of the examination, the applicant stated in [REP6-092], that it considers that it has committed to suitable mitigation measures within the Outline MMMPs.

The ExA’s reasoning on mitigation measures

Noise abatement systems

3.6.59. During the course of the examination there was ongoing disagreement between the applicant, NE and the MMO on the degree of commitment to the use of NAS in the event that piling operations take place. At the final deadline the applicant submitted the MMO’s and NE’s recommended wording into condition 13(1)(f) of schedules 10 and 11 and condition 11(1)(e) of schedules 12 to 14 of the dDCO [AS-042].

3.6.60. Taking the D6 comments of the MMO and NE into account, the ExA is content that the revised wording that is contained in the final version of the Outline MMMP for Piling Activities [REP6-064] and the aforementioned conditions of the dDCO [AS-

⁶ JNCC (2023) ‘JNCC guidance for the use of Passive Acoustic Monitoring in UK waters for minimising the risk of injury to marine mammals from offshore activities’

[042](#)] would overcome any remaining concern regarding there being a sufficient commitment to the use of NAS. However, as neither NE nor the MMO have formally commented on the inclusion of this wording in the final dDCO [\[AS-042\]](#) or the final Outline MMMP for Piling Activities, and there is a degree of equivocation in NE's response, this is a matter which the Secretary of State may consider consulting upon.

The application of passive acoustic monitoring

- 3.6.61. The ExA notes that the final Outline MMMP for Piling Activities [\[REP6-064\]](#) does not contain any additional or updated wording in relation to the use of PAM devices. Therefore, this would not accord with the expectations of NE as set out in its final Risk and Issues Log [\[REP6-153\]](#). The ExA also notes that this is not an outstanding area of concern for the MMO as indicated in [\[REP6-134\]](#).
- 3.6.62. In terms of monitoring, the applicant has submitted an Offshore In-Principle Monitoring Plan [\[REP6-054\]](#). This sets out in table 3.3 the proposed monitoring for marine mammals and is a certified document in schedule 21 of the dDCO [\[AS-042\]](#) for any potential future mitigation measures. In relation to PAM the applicant in [\[REP6-054\]](#) states that: "*Specific details on PAM and methods will be included in the Piling MMMP, considering any available guidance at that time.*" Consequently, there is a recognition from the applicant that the final version of the MMMP for Piling Activities will need to contain further details regarding the use of PAM.
- 3.6.63. The ExA agrees with NE's concerns in relation to the need for a suitable PAM system to be implemented in order to allow for piling to take place in inclement weather. Although there is a commitment to the use of a PAM system in the Outline MMMP for Piling Activities [\[REP6-064\]](#) and Outline MMMP for UXO clearance [\[REP6-066\]](#) it is the ExA's view that as it currently stands these documents do not go far enough in providing details of the PAM system and its implementation. The ExA considers that the final versions of these outline documents should contain more specific details about what the proposed PAM system would constitute, and the applicant should demonstrate that it can cover an appropriate area, including for marine mammals that vocalise infrequently. Should this not be achievable then the wording of the MMMPs should stipulate that piling activities would only take place in weather conditions good enough to allow the effective operation of marine mammal observers.
- 3.6.64. It is unfortunate that this matter has not been progressed further during the course of the examination. However, the wording of condition 13(1)(f) of schedule 10 of the dDCO [\[AS-042\]](#) stipulates that, in the event that driven or part-driven pile foundations are proposed, the licensed activities must not commence until a final MMMP for Piling has been submitted to and approved in writing by the MMO. Consequently, the ExA considers that there are sufficient safeguards contained in the wording of the dDCO to ensure that piling activities would not take place without a suitable final MMMP being approved, and this would include the provision and agreement of further details regarding the use of the PAM system.

Conclusions

- 3.6.65. The applicant has assessed that for the project alone the effects would be either minor adverse or negligible, as would be the cumulative effects. Consequently, the applicant concludes that there would be no significant adverse residual effects for all potential construction, operation and maintenance and decommissioning effects that have been assessed. For cumulative impacts the applicant has also concluded that there would be no significant adverse residual effects on marine mammals.

- 3.6.66. The ExA considers that, by the close of the examination, the areas of disagreement regarding the assessment methodology and impacts on marine mammals at the EIA level have either been resolved or have been indicated to be “*Not agreed (No material impact)*” in the final SoCG with the MMO [\[REP6-097\]](#) or are listed as orange colour-coded issues in NE’s Risk and Issues Log [\[REP6-053\]](#). As such, the ExA concludes that these matters would not substantially affect the applicant’s conclusions.
- 3.6.67. Paragraph 2.8.239 of NPS EN-3 requires applicants to undertake a review of up-to-date research and all potential mitigation options having consulted the relevant Joint Nature Conservancy Committee (JNCC) mitigation guidelines. There have not been any substantive concerns raised regarding the applicant’s assessment methodology, including the baseline and the applicant’s identification of effects. Consequently, the ExA concludes that the requirements of paragraph 2.8.239 of NPS EN-3 and paragraph 5.4.17 of NPS EN-1, that requires the ES to set out the effects of a proposal, have been met.
- 3.6.68. The main concern that has been raised by NE and the MMO throughout the examination has been the need for the applicant to demonstrate a firm enough commitment to the use of NAS as a mitigation measure for underwater noise arising from construction piling operations. This is the only issue that has been allocated a red colour coding in NE’s final Risk and Issues Log [\[REP6-153\]](#), and that is in relation to potential effects at the HRA level.
- 3.6.69. With the revised wording in the Outline MMMP for Piling Activities [\[REP6-064\]](#), which is a certified document in schedule 21, and the final wording contained in condition 13(1)(f) of schedules 10 and 11, and condition 11(1)(e) of schedules 12 to 15 of the final dDCO [\[AS-042\]](#) the ExA is content that the applicant has made a sufficiently robust commitment to the use of NAS in the event that piling operations are required. The ExA considers that this has been adequately secured in the dDCO. Furthermore, the ExA has not been presented with any evidence that, as long as NAS are used, there would be any significantly unacceptable impacts in EIA terms on marine mammals arising from the proposed development alone or cumulatively.
- 3.6.70. Therefore, the ExA concludes that the proposed mitigation would be appropriate and has been adequately secured. Therefore, the proposed development would comply with paragraph 5.4.42 of NPS EN-1 and paragraph 2.8.238 of NPS EN-3 which require that impacts should be mitigated where significant harm cannot be avoided, and which includes the use of noise abatement technology.
- 3.6.71. In conclusion, the ExA considers that the relevant policy requirements regarding marine mammals in NPS EN1, NPS EN-3 and the UK Marine Policy Statement have been met.
- 3.6.72. Taking all of this into account the ExA concludes that, subject to the mitigation secured in the dDCO, the proposed development alone and cumulatively would give rise to a little negative weight in terms of its impacts on marine mammals within the overall [planning balance](#).

3.7. OIL, GAS AND OTHER OFFSHORE INFRASTRUCTURE

Introduction

- 3.7.1. This section considers the effects of the proposed development on oil, gas and other offshore infrastructure, including helicopter access and safety.
- 3.7.2. In the consideration of these matters, the Examining Authority (ExA) has had regard to:
- United Nations Convention on the Law of the Sea (UNCLOS)
 - the Submarine Telegraph Act (1885)
 - the Energy Act (2004)
 - the requirements of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) including section 5.5 and the National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) including section 2.8.
 - East Inshore and East Offshore Marine Plans (2014)
 - any matters prescribed in relation to the proposed development
 - any other important and relevant matters.

The applicant's case

- 3.7.3. Volume 1 of Environmental Statement (ES) Chapter 18 Marine Infrastructure and Other Users [\[APP-073\]](#) provides an assessment of effects on receptors. Specifically, it provides:
- an overview of the existing and future baseline environment, including other offshore windfarms (OWFs), oil and gas activities, carbon capture usage and storage (CCUS), marine disposal and aggregates sites.
 - a summary of the assumptions and limitations of the assessment
 - an assessment of potential environmental effects of the proposed development in isolation and cumulatively during the construction, operation and maintenance and decommissioning phase
 - a summary of embedded mitigation
- 3.7.4. Volume 1 of Environmental Statement (ES) Chapter 16 Aviation, Radar, Military and Communication [\[APP-071\]](#) is also of relevance to this chapter insofar as it relates to helicopter traffic and safety.
- 3.7.5. Volume 2 Figures of ES Chapter 18 [\[APP-108\]](#) identifies the study areas, other OWFs, oil and gas licence blocks, hydrocarbon fields, oil and gas platforms and related infrastructure, disposal and aggregate areas.
- 3.7.6. Volume 2 Figures of ES Chapter 16 [\[APP-104\]](#) provides plans to identify oil and gas platforms and helicopter routing in the context of the proposed development. Volume 3 Appendices of ES Chapter 16 Aviation Technical Report [\[APP-173\]](#) provides an analysis of airspace and radar modelling along with the identification of potential mitigation. A Helicopter Access Report [\[APP-175\]](#) which forms appendix 1 to Chapter 18 of the ES [\[APP-073\]](#) provides an assessment of impacts of the proposed development on helicopter access for adjacent gas platforms.
- 3.7.7. In response to section 51 advice issued by the ExA, the applicant submitted a revised Volume 1 of Chapter 16 of the ES [\[AS1-042\]](#) to address labelling errors, minor discrepancies and omissions in July 2024, prior to the preliminary meeting (PM).

Scope and methodology

- 3.7.8. Section 18.5.1 of the ES [\[APP-073\]](#) lists effects that have been scoped in to the assessment during each phase of the proposed development as well as those scoped out for marine infrastructure. Effects scoped into the assessment are summarised below:
- activity or access displacement associated with increased vessel movements and the use of safety zones during construction, operation and maintenance and decommissioning activities
 - direct disturbance and damage to existing assets and infrastructure from construction, operation and maintenance and decommissioning activities
 - disturbance to operations from the physical presence of project infrastructure during the operations and maintenance phase
 - interference to helicopter access to oil and gas infrastructure during the operation and maintenance phase
 - cumulative activity or access displacement associated with increased vessel movements and the use of safety zones
 - cumulative interference to helicopter access to oil and gas infrastructure
- 3.7.9. Section 16.5.1 of the ES [\[AS1-042\]](#) lists effects that have been scoped in to the assessment regarding aviation. Impacts of relevance to this chapter of the ES are:
- increased air traffic in the area related to windfarm activities in the construction, operation and maintenance and decommissioning phases. Helicopter traffic associated with the construction phase could impact on existing traffic in the area, increasing the risk of aircraft collision
- 3.7.10. The study areas for Chapter 18 of the ES [\[APP-073\]](#) is described in section 18.4.1 and identified in figure 18.1 [\[APP-108\]](#). A helicopter access study area of 9 nautical miles (nm) around the proposed array area is identified. The applicant states that this is consistent with Civil Aviation Authority guidance which suggest a consultation zone of 9 nm around offshore helicopter destinations. For all other impacts, a direct study area is identified which applies a 1 kilometre (km) buffer around the array area, offshore export cable corridor (ECC), artificial nesting structure areas and biogenic reef restoration areas.
- 3.7.11. The study area for Chapter 16 of the ES [\[AS1-042\]](#) comprises of the array area and offshore ECC along with airspace between the array area and the UK mainland.
- 3.7.12. The ES is informed by consultation with relevant stakeholders prior to the submission of the Development Consent Order (DCO) application as detailed in tables 18.2 [\[APP-073\]](#) and 16.2 [\[AS1-042\]](#).
- 3.7.13. The existing baseline environment for marine infrastructure and other users is described in section 18.4.3 of the ES [\[APP-073\]](#). Within the direct study area, this includes other OWFs as identified in table 18.4 and in figure 18.2 [\[APP-108\]](#), namely the existing Triton Knoll, Race Bank, Lincs OWFs and the proposed Dudgeon Extension Project. Other OWFs identified in figure 18.2 on the periphery of the study area include Hornsea One, Hornsea Two, Sheringham Shoal, Dudgeon and the proposed Sheringham Shoal Extension Project.
- 3.7.14. Oil and gas license blocks, platforms and related pipelines and subsea structures also feature. Table 18.7 [\[APP-073\]](#) and figure 18.5 [\[APP-108\]](#) identifies oil and gas platforms. Within the array area they include the Malory (active) and Galahad

(inactive), Pickerill A and B (inactive with topsides removed) platforms operated by Perenco. Platforms within the direct study area but outside of the array area include West Sole C (active) operated by Perenco. The Barque PB platform operated by Shell (active), Excalibur, West Sole A, Waveney and Lancelot (all active) amongst others lie within the helicopter access study area. Paragraph 30 of Chapter 18 of the ES lists platforms between which microwave communications links exist that operate on a Line of Sight Basis (LOS). Subsea infrastructure and pipelines are identified in figure 18.6 [\[APP-108\]](#).

- 3.7.15. Table 18.10 [\[APP-073\]](#) identifies marine aggregate sites. This includes exploration and option Licence Area 1805 operated by Hanson Aggregates Marine Ltd with a licence end date of 31 August 2024. As identified in figure 18.7 [\[APP-108\]](#), this licence area overlaps with the northern offshore ECC and Offshore Reactive Compensation Platform (ORCP) area options. Figure 18.7 also identifies other aggregate areas, CCUS license areas and disposal areas.
- 3.7.16. As identified in figure 16.3 [\[APP-104\]](#), Helicopter Main Routing Indicators (HMRI) are within the study area, including HMRI 4 and HMRI 6 which pass over the array area. Section 16.4.3.4 of the ES [\[AS1-042\]](#) states that no concerns have been raised by NATS regarding impacts on HMRI 4 or HMRI 6.
- 3.7.17. For the purposes of the civil and military aviation assessment, offshore helidecks on oil and gas platforms are also identified in figure 16.3 [\[APP-104\]](#). Figure 16.3 also identifies 9nm consultation zones around helicopter destinations.
- 3.7.18. The nearest Search and Rescue (SAR) base is at Humberside Airport approximately 90km to the west of the array area. The closest Met Office weather radar is located at Ingham 106km to the west of the array area. Section 16.4.3.8 of the ES [\[AS1-042\]](#) confirms that this distance is significantly beyond the 20km safeguarded zone around the facility.
- 3.7.19. The future baseline environment for marine infrastructure and other users is set out in section 18.4.3.11 of the ES [\[APP-073\]](#). In relation to the future civil and military aviation baseline, section 16.4.4 of the ES [\[AS1-042\]](#) identifies the increasing amount of oil and gas infrastructure in the North Sea being decommissioned which may reduce the volume of helicopter traffic.
- 3.7.20. Table 18.11 of the ES [\[APP-073\]](#) establishes the Maximum Design Scenario (MDS) for marine infrastructure and other users. The MDS considered for civil and military aviation and communication for the project alone is set out in table 16.4 [\[AS1-042\]](#).
- 3.7.21. The applicant's approach to the cumulative impact assessment for marine infrastructure and other users is set out in section 18.8 of the ES [\[APP-073\]](#). Table 18.16 specifies other projects considered in the cumulative assessment including aggregate areas, CCUS licence areas and other OWFs, namely the Dungeon Extension Project, Sheringham Shoal Extension Project, Triton Knoll and Dudgeon.
- 3.7.22. Section 16.8 of the ES sets out the approach to cumulative impact assessment [\[AS1-042\]](#). Other projects considered are identified in table 16.7. Table 16.8 identifies the MDS for the cumulative assessment of effects.

The applicant's assessment of effects and proposed mitigation

- 3.7.23. Section 18.5.3 [\[APP-073\]](#) sets out embedded mitigation measures for marine infrastructure and other users. During construction this includes crossing or proximity agreements with other marine users to manage interaction of the

proposed development with other infrastructure and the application of safety zones around structures during construction and major maintenance. A decommissioning programme is identified as embedded mitigation for commissioning.

- 3.7.24. More generally, measures include lighting and marking in agreement with Trinity House, Maritime and Coastguard Agency (MCA), and Civil Aviation Authority (CAA) and in compliance with International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA) G1162 (IALA, 2021), project design, circulation of relevant project information and measures in a Vessel Management Plan (VMP) and Cable Specification and Installation Plan (CSIP). No additional mitigation measures for marine infrastructure and other users are identified.
- 3.7.25. Section 16.5.3 of the ES [[AS1-042](#)] sets out embedded mitigation measures for civil and military aviation and communication and they are summarised in table 16.5 for each phase of the proposed development. Marking and lighting of obstacles will be in accordance with Article 223, MCA Marine Guidance Note (MGN) 654 and MoD requirements. Information, notifications and charting of the proposed development will also be employed via Notice to Airmen (NOTAMs) and obstacle details will be passed on the CAA for dissemination and inclusion on charts. More generally, the adherence of aviation stakeholders to relevant guidance is also identified as embedded mitigation. No additional mitigation measures for civil and military aviation are identified aside from those relating to primary surveillance radars considered in chapter 3.13 of this Recommendation.
- 3.7.26. Effects of the project alone for marine infrastructure and other users are assessed in section 18.7 of the ES [[APP-073](#)]. Table 18.18 summarises effects and residual impacts. Minor adverse effects are identified for each impact assessed which is considered to be not significant by the applicant. As no additional mitigation is identified for any impacts, the residual impact remains the same.
- 3.7.27. Section 16.7 of the ES [[AS1-042](#)] assesses effects regarding civil and military aviation and communication for the project alone. Table 16.19 summarises effects and residual impacts. No significant effects are identified increased air traffic in the area related to windfarm activities.

Cumulative impact assessment

- 3.7.28. Cumulative effects for marine infrastructure and other users are assessed in section 18.8 of the ES [[APP-073](#)]. Table 18.18 summarises effects and residual impacts for cumulative activity or access displacement associated with increased vessel movements and the use of safety zones as well as cumulative interference to helicopter access to oil and gas infrastructure.
- 3.7.29. Minor adverse effects are identified for each impact assessed which is considered to be not significant by the applicant. As no additional mitigation is identified for any impacts, the residual impact remains the same, not significant.
- 3.7.30. Section 16.8 of the ES [[AS1-042](#)] assesses cumulative effects regarding civil and military aviation and communication. Table 16.19 summarises effects and residual impacts. No significant effects are identified for increased air traffic in the area related to windfarm activities.

Issues considered during the examination

- 3.7.31. Based on the comments raised by interested parties (IPs) and the ExA's review of the application documents, the key issues considered during the examination were:

- wake effects on other OWFs
- potential impacts on oil and gas receptors, including on helicopter and vessel access and direct LOS communications
- helicopter access to the Hornsea One and Two reactive compensation stations
- matters relating to the proximity of the proposed development and other offshore infrastructure
- potential impacts on other offshore infrastructure arising from the potential extension of Special Areas of Conservation (SACs)
- potential monitoring implications on other OWFs of cumulative ecological and offshore and intertidal ornithological effects

3.7.32. Furthermore, changes to the proposed development were made by the applicant during the examination as listed below.

- Revisions to the offshore ECC [[REP1-039](#)] – this change request dated 24 October 2024 removed the northern option ECC and ORCP area from the application. A minor amendment to the southern ORCP area was also made to exclude an area of the eastern extent. This change request was accepted by the ExA on 5 November 2024 [[PD-012](#)]
- Introduction of the Offshore Restricted Build Area (ORBA) [[REP2-065](#)] – this change request dated 27 November 2024 introduced a restriction over a strip of the northern section of the array area which equates to 16.4% of the total array area. This provides that no wind turbine generators (WTGs) or platforms would be installed in the ORBA. This change request was accepted by the ExA on 3 December [[PD-015](#)].
- Changes to the MDS of the ORCPs [[REP4-124](#)] – this change request dated 3 February 2025 sought to reduce the maximum height of the ORCPs to 59.2 metres (m) above LAT with any mast or antenna located on the ORCPs to be a maximum height of 79.2m above LAT. The ExA accepted this change request on 11 February 2025 [[PD-022](#)].

3.7.33. The removal of the northern offshore ECC option was in response to confirmation from the applicant [[REP1-039](#)] that the option on aggregate area 1805 had been extended with a Marine Licence Application (MLA/2024/00227) having been made by the agreement holder on 25 April 2024 to permit aggregates extraction within the site for a period of 15 years. As such, the applicant considered that it was no longer viable to pursue the northern offshore ECC option due to potential conflict with aggregates extraction.

3.7.34. The ORBA was introduced to reduce the impact of WTGs on offshore ornithology. However, the applicant's change request states [[REP2-065](#)] that the introduction and size of the ORBA was made possible as the principles for co-existence of the proposed development with the Malory platform had been agreed with Perenco. Specifically, for helicopter transfers to and from the platform which is located within the proposed array area. This had given the applicant confidence that protective provisions with Perenco would be agreed.

3.7.35. In each of the change requests, no new or different likely significant effects or overall conclusions from those in the ES [[APP-073](#) and [AS1-042](#)] are identified. At deadline 5, the applicant submitted an updated Volume 1 [[REP5-031](#)] and Volume 2 [[REP5-056](#)] of Chapter 16 and Volume 1 [[REP5-035](#)] and Volume 2 [[REP5-060](#)] of Chapter 18 of the ES to reflect the changes to the proposed development and other matters considered during the examination as identified below. The conclusions regarding effects are the same as those identified in the ES considered at the start of the examination [[APP-073](#) and [AS1-042](#)].

Wake effects on other OWFs

- 3.7.36. Relevant representations (RRs) from the following parties identified concern regarding the effect of the proposed development on the energy yield on the respective OWFs due to their proximity and scope for the proposed WTGs to impact wind speed and direction:
- Breesea Limited, Soundmark Wind Limited, Sonningmay Limited, Optimus Wind Limited in relation to Hornsea 2 OWF [\[RR-011\]](#)
 - Hornsea 1 Limited [\[RR-028\]](#)
 - Lincs Wind Farm Limited [\[RR-037\]](#)
 - Ørsted Hornsea Project Four Limited [\[RR-051\]](#)
 - Ørsted Hornsea Project Three (UK) Limited [\[RR-052\]](#)
 - Race Bank Wind Farm Limited [\[RR-054\]](#)
- 3.7.37. The applicant's response to these representations [\[PD1-071\]](#) highlighted that the proposed development had been sited in accordance with requirements of the Crown Estate's Offshore Wind Leasing Round 4 process, including that projects may not be located within 7.5km of an existing OWF unless the owner of the OWF has given their written consent. This requirement was considered by the applicant to mitigate against the potential for impacts on energy output.
- 3.7.38. The applicant [\[PD1-071\]](#) also identified the findings of the Offshore Wind Leasing Programme Array Layout Yield Study prepared by Frazer-Nash Consultancy Limited in 2023 [\[REP2-056\]](#) for the Crown Estate which indicated that wake effects level off with approximately 10km separation between OWFs, and at separation distances over 20km wake effects become "*vanishingly small*". The applicant noted that all of the OWFs citing concerns on this matter are located more than 22km away from the proposed array area.
- 3.7.39. For the avoidance of doubt, Chapter 18 of the ES [\[APP-073\]](#) did not provide an assessment of energy yield effects, otherwise known as wake effects, of the proposed development on other OWFs. Such effects were also not discussed in section 18.5.1.2 regarding effects scoped out of the assessment. However, table 18.2 which provides a summary of consultation undertaken prior to the submission of the application highlights similar requests for an assessment of energy yield impacts from parties with the applicant citing the 7.5km buffer related to Crown Estate's Offshore Wind Leasing Round 4 process as it did in response to RRs.
- 3.7.40. The ExA's First Written Questions (ExQ1), Q1 OG 1.2 [\[PD-013\]](#) requested the submission of a wake effects assessment from the applicant or a justification for not doing so. The question also sought comments from the applicant and other OWFs on the implications of the Awel y Mor OWF DCO and Array Layout Yield Study and interpretation of policies in NPS EN-3. Clarification was also sought from the Crown Estate on the purpose of the Array Layout Yield Study, whether the minimum 7.5km distance requirement between Leasing Round 4 projects had taken the potential for wake effects into account and any implications that it may have for the proposed development.
- 3.7.41. In response the Crown Estate [\[REP2-080\]](#) stated that the 7.5km buffer between wind farms ...*"is a separation distance to enable developers to develop, operate and maintain wind farms by allowing for a range of factors including amongst other matters, wake effects.."* It went on to clarify that the 7.5km buffer was used for the purpose of processing project tenders with a view to *"de-risking the Round 4 tender by providing additional mitigation and assurance to participants through limiting*

proximity". However, the Crown Estate also acknowledged *"that inter-farm wake effects can extend beyond these buffer distances"*.

- 3.7.42. A joint response to ExQ1 [\[REP2-076\]](#) on behalf of Breesea Limited, Soundmark Wind Limited, Sonningmay Limited and Optimus Wind Limited, Ørsted Hornsea Project Three (UK) Limited, Ørsted Hornsea Project Four Limited, Lincs Wind Farm Limited, Westernmost Rough Limited and Race Bank Wind Farm Limited, henceforth referred to as the Ørsted Interested Parties (IPs) further emphasised its case for the applicant to provide a wake assessment. It also noted research that indicated that wake effects can be experienced over 50km away.
- 3.7.43. The applicant's ExQ1 response [\[REP2-051\]](#) expanded on its reasoning for not providing a wake assessment having regard to the relevant policy tests in NPS EN-3. Following discussion at issue specific hearing (ISH) 2, the applicant resolved to provide a technical note to set out its assessment for how wake loss effects for other OWFs should be taken into account [\[EV6-004\]](#).
- 3.7.44. At deadline 4, the applicant duly submitted the Wake Loss Technical Note [\[REP4-114\]](#) which set out its policy position and responded to the Ørsted IPs ExQ1 response regarding wake loss. The Wake Loss Technical Note also provided an assessment from the applicant of the potential external wake loss on neighbouring OWFs caused by the proposed development. As identified in table 4-1 of the technical note, wake loss as a percentage of the annual energy production (AEP) ranged from 0% to 0.8% with the highest level of loss identified for the Dudgeon Extension, Dudgeon and Triton Knoll OWFs which are also identified as the closest to the proposed development at 13.5km, 19.9km and 8.5km respectively. The applicant concluded that this is not significant in Environmental Impact Assessment (EIA) terms.
- 3.7.45. The applicant [\[REP4-114\]](#) also considered that *"any mitigation capable of achieving a further reduction to the worst case wake losses set out above, would disproportionately reduce the clean energy generation from the Project (and consequently the cumulative clean energy contribution from all of the projects taken together)"*. According to the applicant, reduction in the size of the proposed array area would result in a denser layout of WTGs leading to a significant increase in internal wake loss for only a minimal reduction in external wake loss. The use of fewer WTGs was also discounted as an option for mitigation by the applicant as it considered that it would disproportionately reduce energy production. Moreover, the applicant considered that the removal of WTGs from the edge of the proposed array area would mostly likely reduce wake for other OWFs but that these WTGs are also the most efficient for the proposed development in terms of energy production.
- 3.7.46. The Wake Loss Technical Note [\[REP4-114\]](#) also provided two net benefit assessments based on *"highly conservative hypothetical scenarios"* of both a 0.5% and 1% loss of AEP on neighbouring OWFs. The findings in relation to gross AEP in gigawatt-hours per year (GWh/yr) are presented in table 5-1. Table 5-2 of the Wake Loss Technical Note sets out the expected annual AEP of the proposed development (5332 GWh/yr) and provides a comparison with the estimated loss in production at other OWFs under the 0.5% (261.4 GWh/yr) and 1% (522.8 GWh/yr) scenarios. The applicant concludes that this indicates that the proposed development *"would still result in a significant net increase in renewable energy generation under these hypothetical scenarios"*. A copy of this table is provided below for convenience.

Table 2 Predicted annual electricity generation of the proposed development compared with 0.5% and 1% of the AEP for other OWFs considered

Proposed development - annual electricity generated (GWh/yr)	5332
0.5% of all electricity generated (GWh/yr) by neighbouring wind farms	261.4
1% of all electricity generated (GWh/yr) by neighbouring wind farms	522.8
Ratio of the proposed development's annual electricity generation to 0.5% of that of its neighbouring wind farms	20.4
Ratio of the proposed development's annual electricity generation to 1.0% of that of its neighbouring wind farms	10.2

- 3.7.47. Tables 5-6 and 5-7 of the Wake Loss Technical Note [\[REP4-114\]](#) set out the related implications for the carbon payback period for the proposed development which would increase once wake loss at other OWFs is taken into account from between 2.3 and 3.2 years to between 2.4 and 3.3 years for the 0.5% wake effect scenario, and to between 2.7 and 3.5 years for the 1% wake effect scenario. This was not considered to be significant in EIA terms by the applicant. The implications of wake loss for the applicant's climate change assessment are considered further in section 3.21 of this Recommendation.
- 3.7.48. The Wake Loss Technical Note [\[REP4-114\]](#) was discussed at ISH6 [\[EV11-001\]](#) where the Ørsted IPs [\[REP4a-125\]](#) stated that the assessment was lacking in details of the methodology or assumptions used for the calculations.
- 3.7.49. At deadline 4a, objections regarding wake effects were withdrawn by the following Ørsted IPs [\[REP4a-125a\]](#):
- Ørsted Hornsea Project Four Limited
 - Ørsted Hornsea Project Three (UK) Limited
 - Lincs Wind Farm Limited
 - Westernmost Rough Limited
- 3.7.50. The Ørsted IPs also submitted its own wake assessment for the three OWFs [\[REP4a-125a\]](#) for which it had outstanding concerns: Race Bank, Hornsea One and Hornsea Two with the latter being identified as experiencing the highest level of loss at 0.74%.
- 3.7.51. Also at deadline 4a, further submissions indicating new concerns regarding wake effects were identified by the following IPs in relation to their respective interests in the Dudgeon and Sheringham Shoal OWFs and consented Dudgeon Extension and Sheringham Shoal Extension OWFs:
- Equinor New Energy Limited on behalf of Scira Extension Limited and Dudgeon Extension Limited [\[REP4a-128\]](#) and [\[REP4a-129\]](#)
 - Dudgeon Offshore Wind Limited [\[REP4a-126\]](#)
 - Scira Offshore Energy Limited [\[REP4a-131\]](#)

- 3.7.52. At deadline 5, the applicant submitted a new independent Wake Impact Assessment Report [\[REP5-152\]](#) prepared by Wood Thilsted. At the same deadline, the Ørsted IPs [\[REP5-176\]](#), submitted a financial impact assessment of wake loss on Race Bank, Hornsea One and Hornsea Two OWFs. It also proposed protective provisions for the OWFs to secure mitigation or compensation for wake loss.
- 3.7.53. Also at deadline 5, Equinor New Energy Limited submitted a representation [\[REP5-157\]](#) on behalf of Scira Extension Limited, Dudgeon Extension Limited, Dudgeon Offshore Wind Limited and Scira Offshore Energy Limited, henceforth referred to as the Equinor IPs. This elaborated on concerns regarding wake loss and confirmed the Equinor IPs' intention to submit protective provisions at deadline 6 to address this by offsetting any related economic loss. This was because from a practical perspective, the Equinor IPs did not consider that *"...any proposed operational mitigation measures will be effective in addressing the impact"*
- 3.7.54. The findings of the Wood Thilsted report were discussed at ISH8 [\[EV13-001\]](#). Both the Ørsted IPs and Equinor IPs confirmed at the hearing and subsequently in writing [\[AS-036\]](#) and [\[AS-037\]](#) that the Wood Thilsted report provides a suitable basis for the assessment of impacts on their respective assets in relation to wake effects. However, disagreement remained between the applicant, Equinor IPs and Ørsted IPs on matters including the potential implications for the viability of other OWFs, the case for protective provisions to mitigate or compensate for wake loss and interpretations of related policy in NPS EN-3.
- 3.7.55. An updated version of the Wood Thilsted report [\[REP6-108\]](#) was submitted by the applicant at deadline 6 following further discussions with the Ørsted IPs and to reflect the inclusion of a *"no build"* zone in the Dudgeon Extension Project. As summarised in section 1.1, the assessment considers a range of scenarios to estimate wake loss of the proposed development alone and cumulatively on existing and proposed OWFs.
- 3.7.56. Table 4 of the report [\[REP6-108\]](#) summarises the results of all scenarios tested. The largest wake loss identified arising from the proposed development alone is 0.88% on the Dudgeon OWF. The average wake loss arising from the proposed development alone on existing wind farms is 0.58%. The average wake loss from the proposed development on existing wind farms in combination with future wind farms is 0.51%. In relation to wake effects on future wind farms, including the impact of the proposed development with other future developments, for the Dudgeon Extension and Sheringham Shoal Extension projects, the highest wake loss is identified as 0.89% on Dudgeon Extension. For Hornsea Three and Hornsea Four, the highest loss is 0.07% on Hornsea Four.
- 3.7.57. At the close of the examination, the positions of the applicant [\[REP6-120\]](#), Ørsted IPs [\[REP6-135\]](#) and Equinor IPs [\[REP6-143\]](#) were set out in respective statements.
- 3.7.58. The Ørsted IPs' closing submission [\[REP6-135\]](#) and Updated Financial Analysis [\[AS-037\]](#) state that based upon the wake loss identified in the Wood Thilsted Report (scenario 1B) as submitted at deadline 5 [\[REP5-152\]](#), there would be a total potential financial impact of between £67m to £199m across Race Bank, Hornsea One and Hornsea Two during the minimum lifetime (24 years) and lifetime extension (10 years). The ExA notes that Ørsted state that *"This assessment does not intend to represent the Ørsted IPs' internal view of the financial impact, which cannot be shared publicly due to its reliance on confidential information"*

- 3.7.59. However, whilst the Ørsted IPs had indicated that the Wood Thilsted report provided a suitable basis for assessment [AS-037], following further discussion with the applicant, at deadline 6, it stated that cumulative wake effect on the Ørsted IPs' assets, including from the Dogger Bank South OWF should be assessed. It also indicated that its own internal modelling suggests that the combined wake effect on its assets of the proposed development and the proposed Dogger Bank South OWF would be greater than 1% AEP.
- 3.7.60. The Ørsted IPs consider that paragraph 2.8.347 of NPS EN-3 is engaged as the adverse effects on its assets are significant, including their future viability. The Ørsted IPs consider that as paragraph 2.8.347 of NPS EN-3 is engaged due to the likelihood of significant effects and impacts on viability, its assets must be protected via protective provisions, including compensation. The Ørsted IPs highlight paragraph 4.3.4 of NPS EN-1 which includes reference of the need for applicants to consider potential effects, including economic effects and to show how they may be avoided, reduced, mitigated or compensated for. The Ørsted IPs also consider that even if "substantial weight" is not afforded under paragraph 2.8.347 of NPS EN-3 because its case regarding viability is not persuasive, there remains a case for compensation under the EIA principles because the wake effects alone are significant.
- 3.7.61. The Ørsted IPs also draw comparison with how co-existence and adverse effects for other sea users are addressed. For example, compensation payment provide for commercial losses for fisheries as reflected in the applicant's own Outline Fisheries Liaison and Co-Existence Plan [PD1-060]. Commuted sums are also secured via protective provisions in other DCOs such as the Associated British Ports (Immingham Green Energy Terminal) Order 2025.
- 3.7.62. Given the Ørsted IPs' conclusions in relation to NPS EN-3 paragraph 2.8.347 and co-existence, it proposes protective provisions [AS-037] which includes that:
- the undertaker must in the design of the authorised scheme take all reasonable measures to minimise Wake Loss effects on the Ørsted IPs' Projects provided that this shall not require the undertaker to materially reduce the generating capacity of the authorised scheme following consultation with the Ørsted IPs
 - an independent third party will undertake a further Energy Yield Study to assess the impact of the proposed development and that related commuted sums are paid to Ørsted IPs by the undertaker
 - the provisions can cease to have effect if agreed in writing and in the event of a national scheme for wake loss assessment and compensation is introduced.
- 3.7.63. The position of the Equinor IPs [REP6-143] aligns with that of the Ørsted IPs. However, based upon wake loss identified in revision 2 of the Wood Thilsted report, table 1 of the Equinor IPs Wake Loss Financial Impact Assessment estimates the total financial impact across the Sheringham Shoal and proposed Dudgeon and Sheringham Shoal and Dudgeon Extension OWFs to be between £42m and £164m. The ExA again notes that *"The assessment does not represent the Equinor IP's internal view of the financial impact, due to the highly sensitive and confidential nature of the commercial information underpinning such matters."*
- 3.7.64. The Equinor IPs consider the second revision of the Wood Thilsted report [REP6-108] *"to be a suitable basis for definition of a worst-case scenario for the assessment of impacts due to wake effects"*.

- 3.7.65. The applicant's closing submission on wake loss matters [\[REP6-120\]](#) states that the applicability of policies in NPS EN-3 relating to "*Other offshore infrastructure and activities*" to wake effects and the need to carry out an assessment is a matter subject to debate for the Mona OWF and Morgan OWF DCO application and fall to the Secretary of State (SoS) to decide. Wake effects only become a relevant consideration for the ExA and SoS in the event that the SoS deems so in determining these two applications in the context of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations).
- 3.7.66. In terms of mitigation via siting and design, the applicant states that proposed development is sited in line with the Crown Estate's Offshore Wind Leasing Round 4 process, including that projects may not be located within 7.5km of an existing offshore wind farm. The applicant considers *that "Such a spacing requirement effectively and appropriately mitigates the potential wake impacts from the Project on other offshore wind farms"*.
- 3.7.67. The applicant goes on to state that paragraph 2.8.2 of NPS EN-3 emphasises the need for offshore wind developments to maximise their capacity which is key when considering policy requirements. The applicant considers that *"Any design decision taken with the intention of mitigating external wake effects will likely have a greater consequence for generating capacity within the Project and an overall net reduction in renewable energy generation"*. In substantiating this statement, the applicant points to the Crown Estate's Offshore Wind Leasing Programme Array Layout Yield Study [\[REP2-056\]](#) which indicates that wake losses between offshore wind developments are considerably smaller than those which take place within arrays. No further mitigation is deemed to be required by the applicant.
- 3.7.68. The applicant considers [\[REP6-120\]](#) that it has collaborated with other offshore developers, owners and operators to facilitate co-existence or co-location as required by NPS EN-3. This includes engagement with IPs in relation to wake during the examination as demonstrated by the withdrawal of objections from Ørsted Hornsea Project Three (UK) Limited, Ørsted Hornsea Project, Lincs Wind Farm Limited and Westernmost Rough Limited at deadline 4a.
- 3.7.69. The applicant [\[REP6-120\]](#) maintains that wake effects arising from the proposed development are very small and cannot be said to be significant in EIA terms. The assessments of wake considered during the examination are broadly consistent in concluding wake effects of less than 1%. The maximum wake loss identified by the Ørsted IPs was 0.74% [\[REP4a-125a\]](#). The applicant also considers that the Carbon Payback Sensitivity Analysis [\[REP5-100\]](#) also has no material impact on conclusions of significance for the climate change assessment [\[REP5-011\]](#). In addition, the applicant notes that there is no guidance to establish the threshold for significance for wake effects in EIA terms. The only precedent available is the figure of 2% for wake loss which was considered sufficient to justify a requirement in the Awel y Mor OWF DCO.
- 3.7.70. The applicant notes that the Ørsted IPs [\[AS-037\]](#) and Equinor IPs [\[AS-036\]](#) agree with the methodology and conclusions as identified in the Wood Thilsted report. However, as identified above, the Ørsted IPs subsequently asked for the proposed Dogger Bank South OWF to be considered in the assessment of cumulative effects.
- 3.7.71. The applicant's position on this request is that there is no wake assessment in the public domain for the proposed Dogger Bank South OWF and it was not possible for the applicant to undertake one in the remaining time available in the Outer Dowsing examination. Furthermore, the applicant considers that such an assessment is not

required as the contribution of Dogger Bank South to cumulative effects on the Ørsted IPs assets to be “*extremely small*” based up the distance between them and prevailing wind direction. In addition, the contribution from the proposed Outer Dowsing OWF to any subsequent significant cumulative impact would be small. The applicant does however acknowledge that if the SoS were to take a different view on the need to consider the cumulative effects with Dogger Bank South OWF, this information should be requested from the applicant

3.7.72. In relation to viability and the policy test in NPS EN-3 paragraph 2.8.374, the applicant considers that a high bar is set. The applicant considers that the Ørsted IPs and Equinor IPs have only asserted that viability of their projects may be affected, not that the proposed development is likely to affect viability as required to engage the policy tests.

3.7.73. Furthermore, the applicant considers that the scope for wake effects to make the difference between a successful contract for difference auction or otherwise is a possibility rather than a likelihood and that it has not been demonstrated that the absence of such a contract would make a project unviable. Similarly, the applicant considers that the reduction in the life extension of other OWFs is only a potential outcome, not a likely one.

The ExA’s reasoning on wake effects on other OWFs

3.7.74. To provide the basis for the ExA’s reasoning on wake effects, the ExA considers it important to firstly address the applicant’s position that NPS EN-3 policies regarding other offshore infrastructure and activities should only apply to wake effects and require a related assessment if this conclusion is reached by the SoS in relation to the Mona OWF and Morgan OWF DCO applications. However, the ExA notes that the SoS has already determined that wake effects are a relevant matter in determining the Awel y Mor OWF DCO application.

3.7.75. Following the close of the examination, on 24 April 2025, the Department for Energy Security and Net Zero published a suite of draft National Policy Statements for consultation. In addition to policies regarding other offshore infrastructure and activities, the draft NPS EN-3 includes policy specifically regarding wake effects that may be indicative of the direction of travel of government policy.

3.7.76. The current NPSs published in 2024 continue to have effect for decision making under s104 of the Planning Act 2008. Section 1.6 of the draft NPS EN-1 states that “...any emerging draft NPSs (or those designated but not yet having effect) are potentially capable of being important and relevant considerations in the decision-making process. The extent to which they are relevant is a matter for the relevant Secretary of State to consider within the framework of the Planning Act 2008 and with regard to the specific circumstances of each Development Consent Order application.”

3.7.77. Due to the timing of the release of the draft NPSs, interested parties have not had the opportunity to comment on the potential implications for the consideration of the proposed development. As such, the ExA was unable to examine the draft NPS EN-3 and it therefore attaches no weight to it.

3.7.78. In the context of the decision of the SoS on Awel y Mor OWF DCO application, it is clear to the ExA that the SoS does consider that wake effects are a relevant matter for assessment and consideration in the determination of OWF NSIP applications.

- 3.7.79. The ExA's reasoning will therefore address wake effects as considered during the examination in the context of the existing suite of NPSs.
- 3.7.80. Turning to the scope and methodology of the assessment of wake effects, the ExA notes that by the close of the examination, the Equinor IPs had agreed that the final Wood Thilsted report provided a suitable basis to conclude on wake effects. The Ørsted IPs also supported the conclusion and approach of the Wood Thilsted report initially but then requested that the proposed Dogger Bank South OWF be considered in terms of cumulative effects. The applicant did not undertake such an assessment due to the lack of any publicly available assessment of Dogger Bank South OWF to draw upon and limited time left during the examination. The applicant also considered that the contribution of Dogger Bank South to any cumulative effect is likely to be extremely small in light of the distance between the Ørsted IPs' assets and Dogger Bank South and the fact that Dogger Bank South is not in the prevailing wind direction.
- 3.7.81. The ExA is satisfied with the broad approach in the final Wood Thilsted report and considers it to provide a suitable basis upon which to identify wake effects. The ExA notes the absence of Dogger Bank South OWF from the cumulative assessment. The Ørsted IPs suggestion in its closing statement [\[REP6-135\]](#) that wake effects of greater than 1% would be experienced across the Ørsted IPs assets once Dogger Bank South OWF is factored in is also noted by the ExA but the internal modelling referenced by the Ørsted IPs is not before the examination.
- 3.7.82. Furthermore, the ExA notes that table 5-2 of the applicant's Wake Loss Technical Note [\[REP4-114\]](#) provided an assessment of the net increase in AEP with the proposed development and wake loss at other wind farms. The reduction in AEP at other OWFs from wake loss was based on hypothetical scenarios of 0.5% and 1% rather than the specific assessment of wake loss on each neighbouring OWF as identified in the Wood Thilsted report [\[REP6-108\]](#). As such, the Wood Thilsted report [\[REP6-108\]](#) does not provide an assessment of the potential net increase in AEP arising from the proposed development in light of its conclusions on wake loss.
- 3.7.83. However, the ExA acknowledges that the hypothetical scenarios tested in the Wake Loss Technical Note [\[REP4-114\]](#) (0.5% and 1%) are broadly in alignment with the subsequent range of findings of the Wood Thilsted report [\[REP6-108\]](#). Based on the available evidence, the ExA is satisfied that the proposed development would bring about a significant net benefit in terms of AEP. Applying the applicant's hypothetical scenarios, the predicted AEP of the proposed development (5332 GWh/yr) would be 20.4 times larger than the hypothetical 0.5% (261.4 GWh/yr) of the total AEP loss of the neighbouring OWFs considered, and 10.2 times larger than 1% (522.8 GWh/yr) of it.
- 3.7.84. As discussed in section 3.21 of this Recommendation, the ExA considers that the assessment of the carbon payback period with wake loss factored in to the updated Chapter 31 of the ES (Climate Change) [\[REP5-011\]](#) is appropriate. Accordingly, overall, the ExA is satisfied with the applicant's assessment of wake loss which provides an assessment of effects on other offshore infrastructure as required by NPS EN-3 paragraph 2.8.197.
- 3.7.85. The ExA notes that paragraph 2.8.198 of NPS EN-3 also requires assessments of potential effects on other offshore infrastructure to be undertaken in accordance with appropriate policy and guidance for offshore wind farm EIAs. However, no such adopted policy or guidance in relation to wake effects is available.

- 3.7.86. Overall, the ExA is satisfied that the applicant has provided a suitable assessment of wake effects upon which to determine the application. Based on the information before the examination, including the applicant's consideration of why an updated cumulative effects assessment with Dogger Bank South OWF is not necessary and the Ørsted IPs position, the ExA considers that an updated assessment is not required.
- 3.7.87. In relation to the significance of conclusions of the assessments before the examination, the ExA notes that the applicant's Wake Loss Technical Note [\[REP4-114\]](#), Ørsted IPs' assessments [\[REP4a-125a\]](#) and the final conclusions in the Wood Thilsted report [\[REP6-108\]](#) all indicate that wake effects, whilst variable across different OWFs, would be less than 1%. However, as noted above, at deadline 6, the Ørsted IPs stated that its own internal modelling indicated that effects of greater than 1% AEP across its assets may be experienced on its assets taking account of the proposed development and the Dogger Bank South OWF. Nevertheless, there is no assessment available to the ExA to confirm this conclusion.
- 3.7.88. The ExA also notes the respective positions of the applicant, the Ørsted IPs and the Equinor IPs on the question of whether the identified wake effects identified in the Wood Thilsted report are significant in EIA terms. As acknowledged by the applicant, the Ørsted IPs and Equinor IPs, there is no established methodology to define the significance of wake effects in EIA terms. Indeed, whilst the applicant submitted the Wood Thilsted report into the examination to identify wake effects, it did not update Chapter 18 of the ES to provide an assessment of significance in EIA terms. Nor does Chapter 18 of the ES scope out wake effects. Instead, the applicant draws comparison with the figure of 2% for wake effects considered sufficiently material to justify a requirement in the Awel y Mor DCO which is greater than the 0.89% at most identified for the proposed development and the findings of the Array Yield Layout Study which describes effects of 2% as "*small*" and effects in the region of 0.5% as "*vanishingly small*". On this basis the applicant considers that wake effects are not significant in EIA terms.
- 3.7.89. Moreover, as noted by the ExA above, the applicant's findings in the Carbon Payback Sensitivity Analysis [\[REP5-100\]](#) are considered in a revised version Chapter 31 of the ES (Climate Change) [\[REP5-011\]](#) as a sensitivity test. Paragraph 70 of the revised Chapter 31 of the ES concludes that the increases in the carbon payback period of the proposed development under both the hypothetical 0.5% and 1% wake loss scenarios "*...are not considered to be material for the purposes of EIA*". As noted in the applicant's Wake Loss Technical Note, Chapter 31 of the ES and Carbon Payback Sensitivity Analysis [\[REP5-100\]](#) the proposed development would result in a significant net increase in renewable energy generation under the hypothetical scenarios tested.
- 3.7.90. Having regard to the evidence before the ExA, including the broadly consistent conclusion of less than 1% wake loss identified in the Wood Thilsted report [\[REP6-108\]](#) and in the respective evidence submitted by the Ørsted IPs and Equinor IPs, as well as the carbon payback periods identified by the applicant, the ExA does not consider it likely that wake effects would be significant.
- 3.7.91. With regards to economic viability impacts on other OWFs and related policy interpretation the ExA notes the potential economic losses identified by both the Ørsted IPs and the Equinor IPs. However, as highlighted by the applicant, the information provided by both parties does not include data on both costs and revenue that would usually be expected of a viability assessment. It is also noted by

the applicant and the ExA that the financial loss assessments provided by the Ørsted IPs and Equinor IPs are caveated with a note that the assessments do not represent the “*internal view*” of the respective parties on the financial impacts which cannot be shared due to confidentiality. As such, the ExA does not consider that there is conclusive evidence in relation to viability. It therefore assigns little weight to this evidence.

- 3.7.92. The Ørsted IPs [\[REP6-135\]](#) consider that paragraph 2.8.347 of NPS EN-3 “*should not be interpreted as requiring the Ørsted IPs’ assets to be rendered completely and immediately unviable*”. Rather, the Ørsted IPs consider that paragraph 2.8.347 should be interpreted as requiring that the future viability of assets will be affected in a significant manner. The estimated reduction in AEP is considered likely by Ørsted to impact decisions and may lead to premature decommissioning without mitigation and/or compensation which may undermine government policy to increase offshore wind capacity to 100 gigawatts by 2050. The Ørsted IPs state that the potential wake loss effects would also coincide with the increased operating expense of existing and aging assets and the point at which market support ends.
- 3.7.93. The Equinor IPs [\[REP6-143\]](#) also highlight concern regarding the impact of revenue loss from wake effects from 2033 when support via a renewable obligation certificate for the Sheringham OWF and contract for difference support for the Dudgeon OWF ends and as maintenance costs increase with age. The Equinor IPs consider that this will significantly impact the business case for the extension of these OWFs which is likely to bring decommissioning forward. In addition, the Equinor IPs state that wake loss would present a material threat to the competitive position of the Sheringham and Dudgeon Extension Projects which may impact their ability to secure a Contract for Difference, should they seek to secure one.
- 3.7.94. The case for the potential for wake effects from the proposed development to bring about the earlier decommissioning of existing wind farms or to undermine the competitive position of OWFs yet to be constructed is informed by the viability evidence put forward by the Ørsted IPs and Equinor IPs. As previously indicated, the ExA considers that little weight can be attached to this evidence. As such, in relation to paragraph 2.8.347 of NPS EN-3, the ExA does not consider that there is sufficient evidence to demonstrate that the proposed development is likely to affect the future viability of existing or approved OWFs.
- 3.7.95. Turning to co-existence and mitigation, the applicant considers that it has undertaken an extensive programme of engagement with other offshore developers, owners and operators throughout the development of its proposals. However, in relation to wake effects, the ExA notes that in response to requests from the respective Ørsted IPs at the pre-application stage to undertake an assessment and identify mitigation, the applicant chose not to carry out additional work. Instead, it referred to the requirements of the Crown Estate Offshore Wind Leasing Round 4 process, including that projects may not be located within 7.5km of an existing OWF. The applicant considered that this distance mitigated against wake loss.
- 3.7.96. Indeed, as noted by the ExA above, the applicant did not provide any form of assessment of wake effects or further commentary on mitigation until deadline 4 in the examination. The ExA does not consider that this constitutes proper engagement on the issue on an ongoing basis.
- 3.7.97. With regards to mitigation, the applicant opines in its closing statement that “*Any design decision taken with the intention of mitigating external wake effects will likely have a greater consequence for generating capacity within the Project and an*

overall net reduction in renewable energy generation.” However, the applicant has not provided any specific technical evidence or design options that directly relate to the proposed development and neighbouring OWFs that substantiates this conclusion.

- 3.7.98. As such, the ExA does not consider that the applicant has meaningfully adhered to the approach set out in NPS EN-1 paragraph 2.1.8 in terms of the early application of the mitigation hierarchy or NPS EN-3 paragraphs 2.8.48 and 2.8.203, 2.8.344, 2.8.345 and 2.8.348 that require engagement and co-operation to minimise impacts and ensure successful co-existence. In this regard, the ExA also finds conflict with Policy GOV2 of the East Inshore and East Offshore Marine Plan which requires that opportunities for co-existence should be maximised wherever possible. Nevertheless, the absence of detailed consideration of mitigation by the applicant should be viewed in the context of its and the ExA's subsequent conclusion of no likely significant effects.
- 3.7.99. Turning to the case for the protective provisions in relation to wake effects sought by the Ørsted IPs [\[AS-037\]](#) for Hornsea One, Hornsea Two and Race Bank OWFs and Equinor IPs [\[REP6-143\]](#) for the Dudgeon, Dudgeon Extension Project, Sheringham Shoal and the Sheringham Shoal Extension Project OWFs.
- 3.7.100. In relation to wake effects, the protective provisions requested by both parties [\[REP6-143\]](#) and [\[AS-037\]](#) include a requirement for the undertaker, in the design of the proposed development, to take all reasonable measures to minimise wake loss effects provided this would not materially reduce the generating capacity of the authorised scheme.
- 3.7.101. The applicant does not consider this to be appropriate in the absence of likely significant effects. As concluded above, the ExA also considers that wake effects are not likely to be significant.
- 3.7.102. The applicant also draws parallels with requirement (R) 25 of the Awel y Mor DCO. It expresses concern that there is no certainty on how to determine whether all reasonable measures to minimise wake loss had been taken or what constitutes material in terms of a reduction of the generating capacity of the authorised scheme. The applicant also indicates that generating capacity is not the only design consideration and there is no guidance as to how wider issues may be addressed. For example, shipping and navigation constraints and how that may interact with design approaches intended to minimise wake effects.
- 3.7.103. Furthermore, the applicant identifies concern that the six projects of Ørsted IPs and Equinor IPs that are located at different points of the compass relative to the proposed development which “...means that it is likely that any marginal benefit on wake effects at one project will have a negative effect on another”. The applicant also points to the decisions of Ørsted IPs and Equinor IPs for their own consented projects will influence wake effects. The applicant suggests that this is supported by the Wood Thilsted report which indicates that the wake effect of the proposed development on operational assets is reduced when the consented wind farms (Hornsea Three and Four and the Sheringham and Dudgeon Extension Projects) are factored into the assessment.
- 3.7.104. Given the absence of likely significant effects, the ExA concludes that protective provisions to secure mitigation to minimise wake effects are not necessary. However, if the SoS considers that further consideration of mitigation is necessary,

the ExA considers that this would more appropriately sit within a requirement in the DCO rather than in protective provisions.

3.7.105.

The ExA's drafting of the potential new requirement would be based upon that set out by the Ørsted IPs and Equinor IPs in the mitigation section of their respective proposed protective provisions and the corresponding requirement in the Awel y Mor DCO. For the avoidance of doubt, the potential requirement is not included in the ExA's rDCO due to its conclusion that significant effects are not likely. The potential requirement states:

- No part of any wind turbine generator shall be erected as part of the authorised development until design provisions to mitigate any such identified effects as far as possible has been submitted to and approved in writing by the Secretary of State in order to minimise wake loss effects on Hornsea One Offshore Wind Farm, the Hornsea Two Offshore Wind Farm, the Race Bank Offshore Wind Farm, Dudgeon Offshore Wind Farm; the Dudgeon Extension Project; the Sheringham Shoal Offshore Windfarm and the Sheringham Shoal Extension Project, provided that this shall not require the undertaker to materially reduce the generating capacity of the authorised scheme. Nor should the mitigation introduce adverse effects to other offshore infrastructure or seas users.
- In order to facilitate the undertaker's compliance with the above:
 - i. The undertaker must consult with the Ørsted interested parties and Equinor Electricity Undertakers as early as reasonably practicable to identify the details including relevant WTG parameters of their respective projects which are at risk of wake loss impacts from the authorised scheme; and
 - ii. The Ørsted interested parties and Equinor Electricity Undertakers must make available to the undertaker all information in their possession reasonably requested by the undertaker in respect of such details and parameters for the Ørsted IPs and Equinor Electricity Undertakers' Projects identified pursuant to sub paragraph (i).
- "Ørsted IPs" means, together or in any combination, Hornsea 1 Limited (company number 07640868), Breesea Limited (company number 07883217), Soundmark Wind Limited (company number 10721881), Sonningmay Wind Limited (company number 10722635), Optimus Wind Limited (company number 07883284) and Race Bank.
- "Equinor Electricity Undertakers" means, together, separately or in any combination: Scira Offshore Energy Limited, Dudgeon Offshore Wind Limited, Scira Extension Limited, Dudgeon Extension Limited, an undertaker as defined in article 2 of the Sheringham Shoal and Dudgeon Extension Offshore Windfarm Order 2024 or any transferee, a transferee of the benefit of the Sheringham Shoal and Dudgeon Extensions Offshore Windfarm Order 2024 under article 5 of that Order, the licensed operator of the Dudgeon Offshore Wind Farm, the licensed operator of the Sheringham Shoal Offshore Wind Farm

3.7.106.

The second aspect of the Ørsted IPs and Equinor IPs protective provisions relates to commuted sums to be paid to the respective parties prior to the commencement of the authorised scheme to cover financial losses incurred as a result of wake loss. This would be informed by a further Energy Yield Study undertaken by an independent third party.

3.7.107.

In support of the case for commuted sums, the Ørsted IPs and Equinor IPs draw comparison with how co-existence and adverse effects for other sea users are addressed. For example, they highlight compensation payments for commercial

losses for fisheries as reflected in the applicant's own Outline Fisheries Liaison and Co-Existence Plan [PD1-060]. Commuted sums secured via protective provisions in other DCOs such as the Associated British Ports (Immingham Green Energy Terminal) Order 2025 are cited as a further example of where protective provision have been adopted to address the financial loss incurred by a third party.

- 3.7.108. Nevertheless, Ørsted IPs also note that it is routine in consenting processes for parties to resolve such matters privately and acknowledge that the government's Clean Power 2023 Action Plan states that wake effects have historically been dealt with outside of the planning process. In this regard, the ExA is mindful that there are no examples of economic loss arising from wake effects being addressed in other DCOs in the context of NPS EN-3 paragraph 2.8.345.
- 3.7.109. The applicant [REP6-120] also raises numerous concerns about the request for compensation including the lack of policy support, the timing of payments for compensation and that the protective provisions contain no link back to what would be required to tip the named projects back into viability or a commitment for the projects to continue to operate after any such payment is made. The applicant considers that the inclusion of such a provision "*...would be so obviously unreasonable, unfair, disproportionate and unduly burdensome in its operation as to be irrational in the Wednesbury sense*". The ExA acknowledges and concurs with these concerns and does not consider the inclusion of the commuted sums provision in the dDCO to be appropriate.
- 3.7.110. The third aspect of the protective provisions requested by the Ørsted IPs and Equinor IPs relates to proximity agreements rather than wake effects and is considered separately later in this Recommendation.
- 3.7.111. In summary, the ExA considers that the applicant has provided a suitable assessment of wake effects and that significant effects are unlikely. The ExA also considers that the applicant has demonstrated that the proposed development would result in a net benefit in terms of AEP. However, the ExA finds policy conflict with the applicant's approach to co-existence and mitigation as it did not meaningfully engage on the matter until relatively late in the process and did not provide detailed consideration of the scope for mitigation via design. The ExA does not consider protective provisions to secure mitigation or commuted sums to address financial impacts to be necessary or appropriate. However, if the SoS considers that further consideration of mitigation via design is necessary, drafting for a potential requirement for inclusion in the DCO is provided in this section of the Recommendation only. This requirement is not in the ExA's rDCO due to its conclusion that significant effects are unlikely.

Potential impacts on oil and gas receptors, including on helicopter and vessel access and direct LOS communications

- 3.7.112. Shell UK Limited's RR [RR-060] highlighted that its Barque PB platform is located 1nm from the array area of the proposed development and that the location of the related exclusion zone and proximity of WTGs would impact Shell's aviation activity. There is also a need for vessel movements. Such activities include visits to sustain production, SAR operations and maintenance or abandonment works. Shell stated that it was working with the applicant and others to ensure minimum safe distances are agreed for helicopter and SAR operations. Furthermore, Shell stated that it was working with the applicant on a commercial agreement to cover aviation impacts.

- 3.7.113. In response, the applicant [\[PD1-071\]](#) referred to the Helicopter Access Report [\[APP-175\]](#) which considered the distance at which helicopter access to the Barque PB platform could be maintained with minimal impacts. A distance of 0.8nm between a helideck and adjacent WTGs has previously been shown to be sufficient for safe day visual meteorological conditions (VMC) operations.
- 3.7.114. However, as outlined in the Helicopter Access Report, an obstacle free arc of 1.01nm is recommended in order to allow helicopter operators additional flexibility. The applicant also highlighted that the proposed development infrastructure would be compliant with MGN 654, and therefore would not inhibit search and rescue access to oil and gas assets. SAR helicopters would be tasked for major incidents, accidents, and urgent medivacs, rather than transport (CAT) helicopters. Therefore, the applicant considers that any reduction in CAT helicopter access would result in a logistic impact on the installation operator, rather than a safety impact.
- 3.7.115. At ExQ1 OG 1.8 [\[PD-013\]](#), the ExA sought comments from IPs on paragraph 108 of Chapter 18 of the ES which proposed structure exclusion zones of 1nm around offshore structures including Barque PB platform in order to allow for helicopter access. No response was received from Shell UK Limited.
- 3.7.116. At deadline 4, the applicant updated schedule 18, part 12 of the dDCO [\[REP4-006\]](#) to include protective provisions for Shell UK Limited. The protective provisions prohibit the erection of WTGs from the proposed development within a WTG exclusion zone unless agreed in writing between the licensee and the undertaker. The exclusion zone is defined as an area covering a 2,500 metre radius from the centre of the Barque assets production helideck as identified on the Shell protective provisions plan [\[REP4-119\]](#). The applicant considers [\[REP6-083\]](#) that the exclusion zone provides Shell with the space to continue its regular aviation activity. The protective provisions also require the two parties to keep each other informed of activities and to enter into a co-existence and proximity agreement if the undertaker plans to undertake works within 500m of the Barque assets.
- 3.7.117. The applicant states that it had been in discussion with Shell UK Limited regarding the protective provisions but that it had not provided substantive comments on them except to clarify the relevant Shell entity. As an action point at ISH8 [\[EV13-008\]](#), the ExA sought confirmation of whether the protective provisions had been agreed between the two parties. No response was received from Shell UK Limited by the ExA. The applicant stated that Shell UK Limited [\[REP6-114\]](#) had not provided an update to the applicant to state that the protective provisions are not agreed. The applicant's planning obligations and side agreements tracker [\[REP6-083\]](#) also confirms that the two parties have reached a consensus on the principles of a commercial agreement regarding the curtailment of helicopter operations and that this will be finalised after the examination.
- 3.7.118. The final dDCO [\[AS-042\]](#) carries forward the protective provisions for Shell UK Limited with an additional beneficiary, namely Esso Exploration and Production UK Limited.
- 3.7.119. Perenco UK Limited [\[RR-053\]](#) and [\[REP1-046\]](#) outlined its interest, along with its affiliates, in the Galahad, Malory and Pickerill fields that lie within the array of the proposed development as well as the Excalibur, Lancelot and Waveney fields that are located close to the southern boundary of the proposed array area. It confirmed that it sought mitigation for helicopter and marine access to its facilities including the Malory platform which is located within the array area. Perenco also sought mitigation to avoid disruption to safety critical LOS microwave communications for

the Malory, Excalibur, Lancelot and Waveney platforms. However, Perenco stated that it had been involved in constructive discussions with the applicant and that it was confident that agreement on mitigation would be reached with the applicant by the close of the examination.

- 3.7.120. The applicant updated the dDCO [\[REP4-006\]](#) at deadline 4 with protective provisions for Perenco Gas (UK) Limited, Perenco North Sea Limited, Everard Energy Limited, Ithaca MA Limited, and RockRose (UKCS2) Limited in schedule 18 part 11 for Excalibur, Galahad, Lancelot and Malory, Pickerill and, West Sole and Waveney assets. The protective provisions seek to manage vessel and helicopter access and LOS microwave communications within defined marine, aviation and communications corridors and exclusion zones as identified on the Perenco protective provision plan [\[REP4-120\]](#).
- 3.7.121. The applicant and Perenco liaised during the examination to refine the details of the protective provisions. At the close of the examination, the protective provisions [\[AS-042\]](#) were broadly agreed by Perenco [\[REP6-125\]](#) and the applicant [\[REP6-121\]](#) and [\[REP6-083\]](#) with the exception of the 50m radius distance used by the applicant to define the communication corridors. The applicant explains in section 13.3 of its closing statement that the 50m radius is supported by its assessment that determined that the maximum Fresnel zone observed across all evaluated LOS links was 19m. As such, the applicant considers the proposed 50m radius provides sufficient additional clearance of 31m to minimise potential diffraction impacts. Whilst a commercial agreement in relation to the curtailment of helicopter access had yet to be agreed by the close of the examination, the applicant's position is that the protected provisions, provide sufficient control to Perenco for the protection of their current and future helicopter operations.
- 3.7.122. Perenco submitted its preferred drafting of the protective provisions at deadline 6 [\[REP6-141\]](#) which largely replicate those submitted by the applicant [\[AS-042\]](#). The main points of difference are Perenco's amendments to increase the radius of the respective communication corridors to 100m. However, Perenco states [\[REP6-141\]](#) that it is due to meet with the applicant to discuss the modelling results that have led to the differences in approach. In addition, Perenco also states [\[REP6-125\]](#) that the protective provisions would only be acceptable to it in conjunction with a confidential commercial agreement which had not been reached by the close of the examination. Accordingly, Perenco requests that the SoS confirms that the confidential agreement has been entered into prior to adopting the protective provisions.
- 3.7.123. IOG North Sea [\[RR-031\]](#) also identified the need to consider helicopter and vessel access and LOS communications. IOG North Sea Limited and its partner, CalEnergy Resources (UK) Limited, held a licence (P2438) which included a commitment to drill an appraisal well on the Goddard gas discovery, prior to any decision by the licence beneficiaries to apply for development and production consent. The Order limits of the proposed development overlap with the licence area. However, at deadline 4, CalEnergy North Sea Limited (formerly IOG North Sea Limited) [\[REP4-147\]](#), confirmed that the P2348 production licence ceased on 31 December 2024 and therefore it wished to withdraw its representations.
- 3.7.124. In response to ExQ1 OG 1.7, the MCA [\[REP2-071\]](#) provided comments on the Helicopter Access Report [\[APP-175\]](#) that queried assumptions and headline conclusions regarding whether SAR aircraft may be able to provide support in poor weather or overnight and whether commercial air traffic (CAT) helicopter availability

may be more of a logistical issue than implied in the report. It also noted that the Malory platform is located within the proposed array area.

3.7.125. The applicant provided a response to the MCA's comments at ISH2 [\[REP3-041\]](#). It stated that whilst the Malory platform is inside the array area, CAT operations would only occur under appropriate visual and meteorological conditions. In relation to search and rescue, the applicant stated the platform is normally unattended and manning in extreme weather conditions would not be expected. The applicant also stated that as the Malory platform would only be manned in daytime during good weather and so access by SAR should not be an issue and the MCA has acknowledged in its submissions that this is not typically an issue for a normally unmanned installation such as in this circumstance.

3.7.126. At ISH2, the MCA confirmed that no further action was required by the applicant on the matter. The final Statement of Common Ground between the MCA and the applicant [\[REP5-137\]](#) does not identify any outstanding concerns on the matter.

The ExA's reasoning on potential impacts on oil and gas receptors, including on helicopter and vessel access and direct LOS communications

3.7.127. In relation to Shell UK Limited's interests, the ExA notes that the applicant's position is that the proposed protective provisions [\[AS-042\]](#), including the 2,500m exclusion zone for the Barque PB platform would address concerns. However, the applicant is clear that whilst it has been in communication with Shell UK Limited and that Shell has not stated that protective provisions are not agreed, Shell hasn't confirmed that they have been agreed either to the applicant or the ExA.

3.7.128. The exclusion zone included in the protective provisions submitted by the applicant for the benefit of Shell UK Limited and Esso Exploration and Production UK Limited has been informed by the Helicopter Access Report [\[APP-175\]](#) and the ExA considers this report to be of a suitable standard. The ExA also notes that the MCA [\[REP5-137\]](#) did not identify outstanding concerns on the Helicopter Access Report at the close of the examination. Furthermore, wider measures committed to by the applicant, including compliance with MGN 654, provide further assurance that safety matters have been addressed. As such, based on the evidence before the ExA, the ExA is satisfied that the exclusion zone secured in schedule 18 part 12 of the dDCO protects the assets of Shell UK Limited and Esso Exploration and Production UK Limited in accordance with NPS EN-3 2.8.348.

3.7.129. With regards to the protective provisions for Perenco Gas (UK) Limited, Perenco North Sea Limited, Everard, Energy Limited, Ithaca MA Limited, and RockRose (UKCS2) Limited, the ExA notes that they are broadly agreed. However, the radii for the communications corridors were still a point of contention at the close of the examination with further discussions due to be held between the two parties regarding respective modelling results. The applicant provided a summary of its modelling in section 13.3 of its closing statement [\[REP6-121\]](#) in support of its proposed 50m radius. As this is the only technical evidence before the ExA, it considers that it supports the applicant's 50m radii for the communications corridors and provides 31 metres additional clearance to minimise the risk of LOS obstruction and diffraction impacts.

3.7.130. Notwithstanding the above, the SoS may wish to consult with the applicant and Perenco UK Limited to determine if both parties are satisfied that there are no potential safety implications which could result from the 50m radius secured within schedule 18 of the rDCO.

Helicopter access to the Hornsea One and Two reactive compensation stations

- 3.7.131. In response to ExQ2 SN 1.1, the Ørsted IPs [\[REP4-149\]](#) requested the applicant to extend the scope of the Helicopter Access Report [\[APP-175\]](#) to consider the reactive compensation substations (RCSs) for the Hornsea One OWF. The Ørsted IPs also requested that the scope of the Oil and Gas Platform Allision and Marine Access Study [\[APP-172\]](#) be expanded to consider the RCS for Hornsea One OWF and Hornsea Two OWF. The RCSs were within the study areas of the respective reports but they had not been considered.
- 3.7.132. The applicant subsequently updated both documents [\[REP5-075\]](#) and [\[REP5-151\]](#) to consider the RCS as requested by the Ørsted IPs. At ISH8, the Ørsted IPs confirmed [\[REP6-126\]](#) that they were satisfied with the updated assessments. Neither update identified concerns regarding the RCSs.

The ExA's reasoning on helicopter access to the Hornsea One and Two reactive compensation stations

- 3.7.133. The ExA notes the Ørsted IPs confirmed that they are satisfied with the updated documents. The ExA is also content that with the inclusion of the Hornsea One and Hornsea Two RCSs in the Helicopter Access Report [\[REP5-075\]](#) and Oil and Gas Platform Allision and Marine Access Study [\[REP5-151\]](#), the two documents provide an adequate assessment of helicopter access and allision.

Matters relating to the proximity of the proposed development and other offshore infrastructure

- 3.7.134. Equinor New Energy Limited on behalf of Scira Extension Limited and Dudgeon Extension Limited's RR [\[RR-059\]](#) identified the proximity of the offshore ECC of the proposed development and the Sheringham Shoal Extension Project and the Dudgeon Extension Project. The RRs from Lincs Wind Farm Limited [\[RR-037\]](#) and Race Bank Wind Farm Limited [\[RR-054\]](#) raised concerns regarding the proximity of the proposed development's offshore ECC with their respective array areas. Both representations considered that proximity agreements would be required to address their concerns.
- 3.7.135. Ørsted Hornsea Four Project Limited [\[RR-051\]](#) noted that there is the potential for overlap of offshore construction activities between the proposed development and Hornsea Four OWF, and requests that the applicant engages with them in advance of construction, to ensure appropriate coordination of those activities particularly with regards to noise impacts at the Southern North Sea SAC and the site integrity plan. The applicant's suggested approach to this as discussed at ISH6 [\[REP4a-120\]](#) was that a cooperation agreement was not necessary because the applicant, Ørsted Hornsea Four Project Limited and other nearby wind farms were members of the Southern North Sea Offshore Wind Forum. The applicant considered that this forum has been successful in managing underwater noise and coordination for projects.
- 3.7.136. The Ørsted IPs closing statement [\[REP6-135\]](#) notes that it continues to engage with the applicant on a draft proximity agreement in relation to the offshore ECC and array area of the Lincs OWF. In addition, it states that this agreement would form the starting point of a subsequent proximity agreement for the Race Bank OWF. At deadline 4a [\[REP4a-125a\]](#), the Ørsted IPs confirmed that it was satisfied that proximity agreements would cover its request for Lincs Wind Farm Limited and Race Bank Wind Farm Limited to be consulted on the outline CSIP and Installation Plan and outline VMP.

- 3.7.137. In relation to the cooperation agreement regarding noise between the applicant and Ørsted Hornsea Project Four Limited, the Ørsted IPs [\[REP6-135\]](#) confirm that negotiations have taken place with the applicant subsequently providing the Ørsted IPs with a draft cooperation agreement for review on 3 April 2025.
- 3.7.138. Paragraph 7 of the Ørsted IPs' proposed protective provisions [\[AS-037\]](#) states that the proximity agreements for Race Bank and Lincs OWFs must be entered into either prior to the date six months following the making of the DCO by the SoS or prior to the commencement of the authorised scheme, whichever is earlier, unless otherwise agreed in writing. Paragraph 8 of the Ørsted IPs' proposed protective provisions specifies that unless otherwise agreed in writing between the undertaker and the Ørsted IPs, any dispute would be determined by arbitration as provided in article 39 (arbitration) of the dDCO. These protective provisions have not been included in the dDCO [\[AS-042\]](#) by the applicant.
- 3.7.139. Equinor's position at the close of the examination [\[REP6-142\]](#) also commits to continuing discussions with the applicant and proposes protective provisions [\[REP6-143\]](#) to secure a cooperation and proximity agreement with similar terms to those requested by the Ørsted IPs.
- 3.7.140. The applicant's position as set out in its closing statement [\[REP6-121\]](#) and in its final planning obligations and side agreements tracker [\[REP6-083\]](#) is that it is in active discussions with the parties and that agreements will be finalised as soon as possible after the close of the examination for Lincs, Race Bank and the Dudgeon Extension Project OWFs.
- 3.7.141. Furthermore, the applicant states that it has incorporated protective provisions into the parts 13 to 15 of schedule 18 of the dDCO [\[AS-042\]](#) to provide protection of the Lincs, Race Bank and Dudgeon Extension Project OWF operational assets. The applicant's view is that the protective provisions provide assurance that no works would take place within the specified control areas without approval of the plans from the respective parties. The control areas for Lincs [\[REP6-117\]](#), Race Bank [\[REP6-118\]](#) and the Dudgeon Extension Project [\[REP6-119\]](#) are identified on respective protective provisions plans and are defined in the dDCO as meaning the area within a distance of 250m extending outwards from the boundary of the relevant OWF. The applicant states that these protections would ensure any effects on third party infrastructure are negated or reduced to a level sufficient to enable the SoS to grant consent in accordance with paragraph 2.8.348 of NPS EN-3, if engaged.
- 3.7.142. The applicant also considers that the protective provisions proposed by the Ørsted IPs and Equinor IPs that would prevent the commencement of Works Nos. 1, 2, 4 and 8 described in part 1 of schedule 10 of the Order or any part of that Work without proximity agreements in place to be inappropriate and that such controls should be limited to works within the defined control areas. The applicant states [\[REP6-121\]](#) that this point has been accepted by the Ørsted IPs in discussions.

The ExA's reasoning on matters relating to the proximity of the proposed development and other offshore infrastructure

- 3.7.143. The applicant has not incorporated the suggested protective provisions of the Ørsted IPs and Equinor IPs to secure proximity agreements within defined timescales. Instead, it seeks to provide protection via control areas within the proximity of the offshore ECC via its alternative protective provisions included in the dDCO [\[AS-042\]](#). The ExA notes that the applicant amended the dDCO to include

these protective provisions for the Lincs, Race Bank and Dudgeon Extension Project OWFs at deadline 6. As such, no comments were submitted by the Ørsted IPs or Equinor IPs on the suitability of the applicant's protective provisions.

- 3.7.144. The ExA notes the comment in section 13.3 of the applicant's closing statement that the Ørsted IPs have accepted in discussions that works controlled by the protective provision should only relate to the control areas. However, the ExA does not have confirmation of this from the Ørsted IPs or broader comments regarding the suitability of the deadline 6 protection provisions from the Ørsted IPs or Equinor IPs.
- 3.7.145. As such, whilst the ExA considers that the protective provisions proposed by the applicant would provide some assurance to the Ørsted IPs and Equinor IPs in the absence of proximity agreements that their interests would be protected, it is unclear to the ExA whether this would be sufficient. In particular, the justification for the geographical extent of the applicant's proposed control zone is not clear.
- 3.7.146. The ExA is mindful that the applicant [\[REP6-083\]](#) considers that proximity agreements will be finalised as soon as possible after the examination. Nevertheless, to ensure that this is the case and that appropriate control areas can be agreed between the parties, the ExA considers that amendments to parts 13, 14 and 15 of schedule 18 of the rDCO are necessary.
- 3.7.147. The ExA's amendments to parts 13, 14 and 15 of schedule 18 would retain the control of works within control areas as proposed by the applicant [\[AS-042\]](#) but rather than defining the precise control areas within the rDCO, the protective provisions require the control areas to be submitted to and approved by the SoS. Prior to such approval, the recommended protective provisions would prohibit the commencement of Works Nos. 5, 7 and 8 described in part 1 of schedule 10 to the Order or any part of that work in recognition of their proximity to the OWFs in question. A further recommended amendment to the protective provisions in parts 13, 14 and 15 of schedule 18 of the rDCO would prohibit the commencement of Works Nos. 5, 7 and 8 until the undertaker has entered into a proximity agreement with the relevant OWF, unless otherwise agreed in writing between the undertaker and OWF in question.
- 3.7.148. Whilst the ExA notes the concerns raised by the applicant on similar protective provisions proposed by the Ørsted IPs and Equinor IPs in that they would prevent the commencement of works without an agreement in place, the protective provisions allow for a deviation of the terms if agreed in writing by the undertaker and the respective IP. In addition, the protective provisions also refer to the determination of disputes by arbitration as per article 39 of the dDCO. As such, the protective provisions set out the means by which disputes would be resolved to enable the commencement of the development.
- 3.7.149. In relation to the cooperation agreement between the applicant and Ørsted Hornsea Project Four Limited, the ExA notes that although the applicant had previously stated that a cooperation agreement was not necessary, the Ørsted IP's closing statement [\[REP6-135\]](#) confirms that a draft was provided to the Ørsted IPs by the applicant on 3 April 2025. At the close of the examination, the ExA was not aware that an agreement on this matter had been reached.

Potential impacts on other offshore infrastructure arising from the potential extension of SACs

- 3.7.150. Concerns were raised by Diamond Transmission Partners RB Limited [\[RR-017\]](#), Lincs Wind Farm Limited [\[RR-037\]](#), Race Bank Wind Farm Limited [\[RR-054\]](#) and TC Lincs OFTO Ltd [\[RR-066\]](#) regarding the possibility of impacts on the operation of other offshore infrastructure arising from the potential extension of the Inner Dowsing Race Bank and North Ridge SAC and/or the Haisborough, Hammond and Winterton SAC. The Applicant provided a response to these RRs on 19 September [\[PD1-071\]](#) noting that any proposals would be subject to consultation at a later date, led by Defra. As such, the applicant considered that stakeholders would be able to ensure that their interests are considered in the decision-making process.
- 3.7.151. In response to ExQ1 OG 1.3, the Ørsted IPs, noted the applicant's position but stated that the location of the proposed SAC extension could limit necessary operations on export cables for Race Bank and Lincs OWFs by introducing further constraints into an already busy and ecologically constrained area of seabed. The Ørsted IPs went on to state that whilst the applicant identifies the interactions with Race Bank and Lincs OWFs in the review of other users section of the Without Prejudice Benthic Compensation Evidence Base and Road Map [\[APP-248\]](#), it makes no substantive comments or analysis on the impact of the proposed SAC designation in this location on those projects.
- 3.7.152. Also in response to ExQ1 OG 1.3, Natural England (NE) [\[REP2-074\]](#) stated that it is too early to determine the location of compensation or type of habitat to be provided. It also explained that Defra would identify options and lead on formal consultation during which stakeholder concerns should be raised.

The ExA's reasoning on potential impacts on other offshore infrastructure arising from the potential extension of SACs

- 3.7.153. As the benthic compensation measures have yet to be finalised and they would be subject to consultation with stakeholders by Defra, the ExA is satisfied that the Ørsted IPs would have the opportunity to identify any concerns, should they arise, regarding any impacts on Race Bank and Lincs OWFs through this potential future process.

Potential monitoring implications on other OWFs of cumulative ecological and offshore and intertidal ornithological effects

- 3.7.154. Concerns were raised in RRs from Breesea Limited, Soundmark Wind Limited, Sonningmay Limited, Optimus Wind Limited [\[RR-011\]](#), Hornsea 1 Limited [\[RR-028\]](#) and Lincs Wind Farm Limited [\[RR-037\]](#) regarding the potential impact of cumulative ecological and ornithological effects on post construction monitoring of other OWFs.
- 3.7.155. The applicant responded [\[PD1-071\]](#) to these concerns with a conclusion that post construction monitoring would not be impacted due to the negligible effects identified in Chapter 10 [\[APP-065\]](#) and Chapter 12 of the ES [\[AS1-040\]](#). In response to a further request for clarification from the Ørsted IPs that the Lincs OWF is included in the ornithological cumulative effect assessment, the applicant [\[REP3-054\]](#) confirmed that Lincs OWF was assessed but not specifically referenced due to a typographical error that was rectified with the submission of a revised Chapter 12 of the ES [\[REP4a-011\]](#). The Ørsted IPs confirmed that it was satisfied that Lincs OWF had been included in the cumulative assessment [\[REP4-149\]](#).

The ExA's reasoning on the potential monitoring implications of cumulative ecological and ornithological effects

- 3.7.156. The ExA is satisfied with the applicant's clarification that the Lincs OWF has been included in the cumulative effects assessment of offshore and intertidal ornithology. Furthermore, the ExA also concurs with the applicant due to the absence of significant effects, there would not be an impact from the proposed development on the post construction monitoring of other OWFs. Cumulative and in-combination effects on marine and intertidal ornithology are considered separately in section 3.5 of this Recommendation.

Conclusions

- 3.7.157. The ExA is satisfied with the applicant's assessment of wake loss which provides an assessment of effects on other offshore infrastructure as required by NPS EN-3 paragraph 2.8.197 insofar as it relates to wake effects. The ExA is satisfied with the applicant's assessment of other matters as set out in Chapter 18 and 16 of the ES with the additional assessments appended to the Helicopter Access Report [\[REP5-075\]](#) and Oil and Gas Platform Allision and Marine Access Study [\[REP5-151\]](#) to consider the RCS for Hornsea One OWF and Hornsea Two OWF.
- 3.7.158. The case for the potential for wake effects from the proposed development to bring about the earlier decommissioning of existing wind farms or to undermine the competitive position of OWFs yet to be constructed is informed by the economic loss evidence put forward by the Ørsted IPs and Equinor IPs. The ExA considers that little weight can be attached to this evidence as it is stated by the Ørsted IPs and Equinor IPs as not representing the "*internal view*" of either party due to commercial confidentiality. Furthermore, the evidence does not provide a full assessment of viability taking both costs and revenue into account. As such, in relation to paragraph 2.8.347 of NPS EN-3, the ExA does not consider that there is sufficient evidence to demonstrate that the proposed development is likely to affect the future viability of existing or approved OWFs.
- 3.7.159. Due to the late timing of detailed engagement on wake loss, with the applicant only providing its Wake Loss Technical Note at deadline 4, the ExA does not consider that the applicant has meaningfully adhered to the approach set out in NPS EN-1 paragraph 2.1.8 in terms of the early application of the mitigation hierarchy or NPS EN-3 paragraphs 2.8.48 and 2.8.203 and 2.8.344, 2.8.345 and 3.8.348 that require engagement and co-operation to minimise impacts and ensure successful co-existence. Further to this, the ExA does not consider that the applicant has adequately considered mitigation for wake loss. The applicant's approach draws upon the 7.5km separation distance between OWFs set by the Crown Estate's Offshore Wind Leasing Round 4 process but it has not provided any specific assessment of the scope for design and layout options that could potentially mitigate wake effects.
- 3.7.160. The ExA also finds conflict with Policy GOV2 of the East Inshore and East Offshore Marine Plan which requires that opportunities for co-existence should be maximised wherever possible. Nevertheless, the absence of detailed consideration of mitigation by the applicant should be viewed in the context of its and the ExA's subsequent conclusion of no likely significant effects. As such, on the basis of the assessment before the examination, the ExA does not consider mitigation to be necessary.
- 3.7.161. Given the absence of likely significant effects, the ExA concludes that protective provisions to secure mitigation requested by Ørsted IPs and Equinor IPs to minimise

wake effects are not necessary. However, if the SoS considers that mitigation via design is required, the ExA considers that this would more appropriately sit within a requirement in the DCO rather than in protective provisions and provides suggested drafting in this section of the Recommendation.

- 3.7.162. The ExA's drafting of a potential new requirement as set out in this section could be based upon that set out by the Ørsted IPs and Equinor IPs in the mitigation section of their respective proposed protective provisions and the corresponding requirement in the Avel y Mor DCO. The requirement would prohibit any part of any wind turbine generator to be erected as part of the authorised development until design provisions to mitigate any such identified effects as far as possible has been submitted to and approved in writing by the SoS. Provided that this shall not require the undertaker to materially reduce the generating capacity of the authorised scheme. Nor should the mitigation introduce adverse effects to other offshore infrastructure or seas users. For the avoidance of doubt, the requirement is not included in the rDCO due to the ExA's conclusion that significant effects are unlikely.
- 3.7.163. In relation to potential impacts on oil and gas receptors, including on helicopter and vessel access and direct LOS communications, the ExA acknowledges the protective provisions included within the dDCO for the benefit of Shell UK Limited and Esso Exploration and Production UK Limited. They include a 2,500m exclusion zone for the Barque PB platform which has been informed by the Helicopter Access Report [\[APP-175\]](#). The ExA considers this report to be robust. The ExA also notes that the MCA [\[REP5-137\]](#) did not identify outstanding concerns on the Helicopter Access Report at the close of the examination. Furthermore, wider measures committed to by the applicant, including compliance with MGN 654, provide further assurance that safety matters have been addressed.
- 3.7.164. As such, based on the evidence before the examination, the ExA is satisfied that the exclusion zone secured in schedule 18 part 12 of the dDCO protects the assets of Shell UK Limited and Esso Exploration and Production UK Limited in accordance with NPS EN-3 2.8.348.
- 3.7.165. In relation to the protective provisions for Perenco Gas (UK) Limited, Perenco North Sea Limited, Everard, Energy Limited, Ithaca MA Limited, and RockRose (UKCS2) Limited in the dDCO, the ExA notes that they are agreed with the exception of the radii for communications corridors. The applicant's proposed 50 metres is supported by the only technical evidence before the ExA. In this context, the ExA considers 50m radii for the communications corridors to be appropriate as it would provide 31 metres additional clearance to minimise the risk of LOS obstruction and diffraction impacts. Notwithstanding the above, the SoS may wish to consult with the applicant and Perenco UK Limited to determine if both parties are satisfied that there are no potential safety implications which could result from the 50m radius secured within schedule 18 of the rDCO.
- 3.7.166. The ExA's recommended amendments to protective provisions in parts 13, 14 and 15 of schedule 18 of the rDCO for Race Bank, Lincs and the Dudgeon Extension Project are considered by the ExA to be necessary to secure proximity agreements and to define suitable control areas within which to manage works. The protective provisions set out by the ExA in would supersede those provided by the applicant. They would retain the control of works within control areas as proposed by the applicant [\[AS-042\]](#) but rather than defining the precise control areas within the rDCO, the protective provisions require the control areas to be submitted to and approved by the SoS. Prior to such approval, the recommended protective

provisions would prohibit the commencement of Works Nos. 5, 7 and 8 described in part 1 of schedule 10 to the Order or any part of that work in recognition of their proximity to the OWFs in question. A further recommended amendment to the protective provisions in parts 13, 14 and 15 of schedule 18 of the rDCO would prohibit the commencement of Works Nos. 5, 7 and 8 until the undertaker has entered into a proximity agreement with the relevant OWF, unless otherwise agreed in writing between the undertaker and OWF in question.

- 3.7.167. With the above protective provisions supported or recommended by the ExA, the ExA considers the application to negate or reduce effects, aside from wake effects, on other offshore infrastructure or operations to a level sufficient to enable the SoS to grant consent in line with paragraphs 2.8.341 to 2.8.348 of NPS EN-3.
- 3.7.168. In relation to the cooperation agreement between the applicant and Ørsted Hornsea Project Four Limited, the ExA notes that a draft was provided to the Ørsted IPs on 3 April 2025. The ExA is not aware if an agreement on this has been reached.
- 3.7.169. Paragraph 2.8.347 of the NPS states that where a proposed development is likely to affect the future viability or safety of other offshore infrastructure, the SoS should afford these adverse effects substantial weighing in its decision making.
- 3.7.170. Given the information before the examination, the ExA does not consider that substantial weighting should apply in this instance and any residual adverse effects would only carry a little weight for the purposes of the planning balance.
- 3.7.171. The ExA does not identify any local policies that it considers to be important and relevant to the consideration of the proposed development in relation to oil, gas and other offshore infrastructure.
- 3.7.172. Overall, the ExA concludes that oil, gas and other offshore infrastructure matters weigh against the making of the Order due to residual adverse effects and conflict with policy regarding co-existence and mitigation in relation to wake effects. In the absence of likely significant effects, the ExA assigns moderate weight against the making of the Order for the purposes of the [planning balance](#).

3.8. FISH AND SHELLFISH ECOLOGY

Introduction and Policy

3.8.1. This section examines the significance of effects of the proposed development on fish and shellfish ecology at the environmental impact assessment (EIA) level. The impacts on any fish or shellfish species that are qualifying features of any European sites are considered in more detail in the Habitats Regulations Assessment appendix of this Recommendation. The effects on commercial fishing and fisheries are considered in chapter 3.9 of this Recommendation and any effects on fish in freshwater habitats are considered in chapter 3.15.

3.8.2. In the consideration of these matters, the Examining Authority (ExA) has had regard to:

- the requirements of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) including section 4.3
- the National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) including section 2.8
- UK Marine Policy Statement (2011)
- East Inshore and East Offshore Marine Plans (2014), including Policy FISH1
- any other important and relevant matters

The applicant's case

3.8.3. The applicant submitted a number of relevant documents for fish and shellfish ecology to accompany the application, notably the following:

- Environmental Statement (ES) Chapter 10: Fish and Shellfish Ecology [[APP-065](#)]
- Fish and Shellfish Ecology Figures Part 1 of 2 [[APP-097](#)]
- Fish and Shellfish Ecology Figure Part 2 of 2 [[APP-098](#)]
- Fish and Shellfish Ecology Technical Baseline [[APP-159](#)]

3.8.4. Section 10.4 of ES Chapter 10 [[APP-065](#)] indicates that the study area has been defined at three spatial scales. The study area for primary impacts comprises the array area and offshore export cable corridor (offshore ECC). For secondary impacts a wider area has been considered based on a zone of influence and, thirdly, a maximum 50km study area has been defined for underwater noise impacts on fish and shellfish receptors. Table 10.5 of ES Chapter 10 [[APP-065](#)] details the data sources used and table 10.6 lists the fish and shellfish species present and their valued ecological receptor classification.

3.8.5. Table 10.7 of [[APP-065](#)] sets out the potential impacts on species that have been scoped in for assessment based on the maximum design scenario assessed during the construction, operation and maintenance, and decommissioning phases. The effects scoped in for assessment include underwater noise, electro-magnetic field (EMFs) arising from cables, temporary seabed loss or disturbance during construction operations and increased hard substrate during the operational phase. In terms of assessing potential effects on fish species due to noise impacts the applicant identified three groupings based on sensitivity to noise and behavioural impacts as follows: fish with no swim bladder, fish with a swim bladder that is not involved in hearing, and fish with a swim bladder involved in hearing. Species with a swim bladder involved in hearing are considered to be the most sensitive to underwater noise impacts.

- 3.8.6. As reported in table 8 of ES Chapter 10 [\[APP-065\]](#) the proposed mitigation, at the start of the examination, includes the submission of a Cable Specification and Installation Plan (CSIP), based on the Outline CSIP [\[APP-278\]](#) and an Outline Marine Mammal Mitigation Protocol for Piling Activities (Outline MMMP for Piling) [\[APP-279\]](#) that would also seek to mitigate adverse noise impacts for susceptible fish species such as herring and whiting.
- 3.8.7. As reported in ES Chapter 10 [\[APP-065\]](#) the applicant assessed 16 separate impacts arising from the construction, operation and maintenance, and decommissioning phases. These include the following impacts:
- mortality, injury and behavioural changes resulting from underwater noise arising from construction activity
 - temporary seabed habitat loss/disturbance
 - underwater noise as a result of operational turbines
 - EMF effects arising from cables
 - temporary increase in suspended sediment concentration and sediment deposition (construction and decommissioning phases)
- 3.8.8. For all 16 of these impacts the applicant assessed the significance of effect to be minor adverse, except for 1 impact (long-term habitat loss due to the presence of turbine foundations, scour protection and cable protection) which was considered to be negligible to minor adverse. The applicant concluded that these impacts would be not significant in EIA terms.
- 3.8.9. Table 10.23 of [\[APP-065\]](#) lists the projects considered for cumulative assessment. The applicant concludes that the impacts assessed for cumulative assessment would be minor adverse. Therefore, as recoded in table 10.27 of ES Chapter 10 [\[APP-065\]](#), the applicant concluded that there would be no significant adverse residual effects on fish and shellfish ecology during all stages of the proposed development for both the project alone and cumulatively.

Issues considered during the examination

- 3.8.10. During the course of the examination the applicant submitted revised versions of the following documents:
- ES Chapter 10 [\[REP5-021\]](#)
 - Fish and Shellfish Ecology Figures [\[REP5-050\]](#) and [\[REP5-051\]](#)
 - Fish and Shellfish Ecology Technical Baseline [\[REP5-068\]](#)
- 3.8.11. These revised submissions did not change the conclusions that the applicant had originally drawn in respect of impacts on fish and shellfish ecology.
- 3.8.12. Based on the comments raised by interested parties (IPs) and the ExA's review of the application documents, the key issues considered during the examination were as follows:
- the applicant's methodology for assessing effects
 - impacts on sandeel and herring populations
 - electro-magnetic fields

The applicant's methodology for assessing effects

- 3.8.13. The principal issues raised at the start of the examination by the Marine Management Organisation (MMO) in its relevant representation (RR) [\[RR-042\]](#) were concerned with the methodology used by the applicant in its assessment of effects

and the subsequent impacts on fish and shellfish species, particularly sandeel and herring populations. As stated in table 10.7 of ES Chapter 10 [APP-056] spawning and low intensity nursery grounds for herring occur across the study area and for sandeel low intensity spawning and low intensity nursery grounds occur across the study area.

- 3.8.14. As noted in the Principal Areas of Disagreement Summary Statement (PADSS) [APP-053], the MMO at the pre-application stage raised the issue of how the applicant had surveyed for sandeel populations and habitat, and the MMO requested that the data from the North Sea Sandeel Survey be incorporated. As stated in table 10.2 of the Fish and Shellfish Ecology Technical Baseline [APP-159] the applicant provided this information to accompany the application. The MMO in [REP2-092] thanked the applicant for presenting the modelled noise contours for the effects of mortality and potential injury for sandeel habitat from simultaneous piling of jacket foundations and monopile foundations.
- 3.8.15. In response to the ExA's First Written Questions (ExQ1) FSE1.6 [PD-013] regarding the sandeel fishing ban that came into effect in the English and Scottish waters of the North Sea from 26 March 2024, both the applicant and Natural England (NE) stated that it is too soon to ascertain the implications of this in regards to population effects.
- 3.8.16. In ES Chapter 10 [APP-065] the applicant has assessed herring as a medium sensitive receptor. However, in [RR-042] the MMO considered that herring should be considered a high sensitivity receptor. In response to ExQ1 FSE1.1 [PD-013] the applicant in [REP2-051] maintained its position that a medium sensitivity for herring is appropriate and noted that even if herring were to be considered as a nationally important species then the determination of medium sensitivity would not change.
- 3.8.17. In response to the MMO's RR [RR-042] the applicant submitted revised International Herring Larvae Survey heat maps for the most recent 10 years within its Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix A Figures Part 1 of 2 [PD1-082] and the MMO confirmed it was satisfied with this in [REP2-092].
- 3.8.18. In its RR [RR-042] the MMO recommended the presentation of additional noise modelling for the single strike sound exposure levels (SELss) received at the Banks herring spawning grounds based on the 135 decibel (dB) SELss startle response. The applicant stated, for example in its Response to Relevant Representations [PD1-071], that it did not support the use of the 135dB SELss contour to establish behavioural impact ranges for clupeids and other noise-sensitive fish species. However, the applicant provided worst-case impact ranges for spawning herring and sandeel and for fleeing receptors in its Appendix A Figures Part 1 [PD1-082].
- 3.8.19. In its D2 response [REP2-092] the MMO stated that: *"Given that the overlap of noise contours from piling in the array with the area of 'active' spawning ground is driven by piling in the western portion of the array, the MMO considers that the recommended temporal mitigation can be applied spatially, so that piling within the eastern portion of the array can be carried out at any time."*
- 3.8.20. Whilst the MMO had some initial concerns about the information provided in relation to shellfish ecology it acknowledged in [REP2-092] that the applicant has evidenced the use of MMO landings data for commercially important shellfish species between 2018-2021. The MMO considered that the applicant had provided sufficient information to address its previous comments in this regard.

The ExA's reasoning on the applicant's methodology for assessing effects

- 3.8.21. The ExA notes that in the final Statement of Common Ground (SoCG) with the MMO [\[REP6-097\]](#) there are no outstanding concerns regarding the assessment methodology and level of information the applicant has provided as all matters are agreed in relation to fish and shellfish ecology.
- 3.8.22. The MMO in its deadline 6 (D6) comments [\[REP6-133\]](#) stated that it “...considers the updated array area modelling presented by the Applicant has used appropriate parameters to calculate the predicted impact ranges. The small overlap in the range of impact is acceptable for the purposes of determining the spawning herring piling restriction area.”
- 3.8.23. The MMO also stated in [\[REP6-133\]](#) that all concerns regarding shellfish ecology have been addressed by the applicant and the MMO thanked the applicant for their resolution.
- 3.8.24. Taking into account the views expressed at D6 by the MMO, the ExA considers that the applicant has satisfactorily assessed the effects of the proposed development on fish and shellfish ecology. The specific impacts on sandeel and herring populations and the potential for a temporal piling restriction as mitigation are discussed next.

Impacts on sandeel and herring populations

- 3.8.25. At the start of the examination, NE in [\[RR-045\]](#) and the MMO in [\[RR-042\]](#) raised concerns about the potential impacts of the proposed development on herring due to the presence of the Banks herring spawning grounds and also on sandeel due, in part, to likely effects on habitat arising from construction operations.
- 3.8.26. In [\[PD1-082\]](#) the applicant presented noise modelling contours for the areas of sandeel habitat from the simultaneous piling of jacket and monopile foundations. In its D2 response [\[REP2-092\]](#) the MMO maintained its view that there would be the potential for disturbance to sandeel caused by piling noise combined with physical habitat disturbance due to activities such as sandwave clearance.
- 3.8.27. However, in its D2 submission [\[REP2-092\]](#) the MMO noted that: “... the project is located within a much wider area of sandeel habitat, so we do not believe that further mitigation to prevent significant impacts to sandeels at a population scale is necessary.” In the final SoCG with the MMO [\[REP6-097\]](#) it is marked as being an agreed matter in relation to the assessment of impacts on sandeel and that no further mitigation for sandeel is necessary.
- 3.8.28. In the PADSS [\[APP-053\]](#) and in its RR [\[RR-042\]](#) the MMO raised concerns about the potential underwater noise impacts arising from piling operations on spawning herring, their eggs and larvae for the Banks herring population. As recorded in its D2 submission [\[REP2-092\]](#) the MMO acknowledged that the main outstanding issue at that stage of the examination was the impact of piling noise during the Banks herring spawning season.
- 3.8.29. A Spawning Herring Piling Restriction Plan [\[REP6-078\]](#) was submitted by the applicant at D6 which indicates the extent of the spawning herring piling restriction area that lies within the western part of the overall array area. Condition 25 of schedule 10 (generation assets) of the applicant's final draft Development Consent Order (dDCO) [\[AS-042\]](#) provides a piling restriction for spawning herring. This requires that no piling activity may be undertaken within the spawning herring piling

restriction area during the herring spawning season unless otherwise approved in writing by the MMO. The herring spawning season is defined in condition 25 as being from 1 September to 16 October inclusive.

- 3.8.30. Furthermore, at D5 a new condition 17 was added to both schedule 12 and schedule 13 of the dDCO which both relate to the northern artificial nesting structure. The new condition 17 in both schedule 12 and schedule 13 states that “*No piling of any type is permitted between 1 September and 16 October each year.*” This condition has been retained in the final dDCO [\[AS-042\]](#).

The ExA’s reasoning on impacts on sandeel and herring populations

- 3.8.31. The additional information provided by the applicant during the examination has enabled the initial concerns of the MMO in relation to impacts on sandeel to be overcome. This is now an agreed issue, as recorded in the final SoCG with the MMO [\[REP6-097\]](#). No other IPs have raised specific concerns about impacts on sandeel. Consequently, the ExA considers that whilst there would remain some impacts on sandeel, primarily during the construction phase, the applicant has satisfactorily addressed these impacts as far as possible. Furthermore, although the effects are not yet known, the recent sandeel fishing ban in UK and Scottish waters has the potential to increase the sandeel population throughout the wider area.
- 3.8.32. In order to mitigate impacts on the Banks herring population the MMO, for example in [\[REP2-092\]](#), recommended the imposition of a condition in the dDCO to prohibit piling operations from taking place between 1 September and 16 October in any year to account for the Banks herring spawning season.
- 3.8.33. This was a matter of discussion throughout the examination. However, by the close of the examination the applicant has incorporated such a restriction into condition 25 of schedule 10 of its final dDCO [\[AS-042\]](#) for the western part of the array area that comprises the spawning herring piling restriction area. A similar temporal restriction is also contained in condition 17 of schedules 12 and 13 for the northern artificial nesting structure where no piling of any type is permitted between 1 September and 16 October in any year. These dates accord with those recommended by the MMO in [\[REP2-092\]](#).
- 3.8.34. Having regard to this, the ExA considers that this seasonal restriction would represent an appropriate mitigation measure to protect spawning herring and it has been properly secured in the dDCO [\[AS-042\]](#). The ExA therefore considers that due to the inclusion of these conditions within the dDCO [\[AS-042\]](#) the impacts on spawning herring have been adequately mitigated.

Electro-magnetic fields

- 3.8.35. In its relevant representation [\[RR-042\]](#) the MMO referenced the effects of EMFs on electro-sensitive fish such as elasmobranchs, eel and lamprey. The MMO noted that the intended average cable burial depth is between 0 to 3m and recommended that where possible cables should be buried to a depth of 1.5m.
- 3.8.36. In its Response to Relevant Representations [\[PD1-071\]](#) the applicant stated that it had committed to a cable burial depth of 1m and that “*The proposed burial of the subsea cables and the application of additional cable protection if needed, will provide a separation between buried cable and the seabed surface, and therefore effects from EMF will be reduced.*”

- 3.8.37. The MMO did not raise any concerns in relation to this matter again during the remainder of the examination. In [\[AS-035\]](#) the Eastern Inshore Fisheries and Conservation Authority (EIFCA) recommended that further research be undertaken to better assess the effects of EMFs on marine fauna. However, EIFCA considered that this should be a matter for the marine cable industry rather than any individual developer and it did not raise any specific concerns in this regard for the proposed development.

The ExA's reasoning on electro-magnetic fields

- 3.8.38. Paragraphs 2.8.245 to 2.8.249 of NPS EN-3 provide guidance on assessing the effects on fish and shellfish from offshore wind projects in relation to EMFs. In the final Statement of Common Ground (SoCG) with the MMO [\[REP6-097\]](#) there are no outstanding concerns regarding the assessment of EMFs on fish and shellfish ecology.
- 3.8.39. The ExA notes the proposed cable burial depth of 1m and is satisfied that the impacts of EMFs on fish and shellfish ecology have been adequately assessed and has no reason to disagree with the applicant's assessment that there would be no significant adverse impacts arising from EMFs.

Conclusions

- 3.8.40. During the course of the examination the applicant provided updated and additional assessment information in response to issues that have been raised by the MMO. This additional information means that by the close of the examination no outstanding concerns remain in relation to the assessment of effects on fish and shellfish ecology. All matters in relation to fish and shellfish ecology are marked as being agreed in the final SoCG with the MMO [\[REP6-097\]](#).
- 3.8.41. As reported in the final SoCG with the MMO [\[REP6-097\]](#) the impacts of the proposed development, both for the project alone and cumulatively, on fish and shellfish ecology are agreed. Therefore, the ExA considers that the applicant has undertaken a suitable assessment methodology and the proposed development accords with section 4.3 of NPS EN-1 in this regard.
- 3.8.42. Whilst there would inevitably be some disturbance to fish and shellfish, during the construction phase in particular, the ExA considers that such impacts have been mitigated to an acceptable level.
- 3.8.43. In reaching this decision, the ExA has had regard to condition 25 of schedule 10 and condition 17 of schedules 12 and 13 of the final dDCO [\[AS-042\]](#). It is the ExA's view that these conditions accord with the temporal restriction on piling activities during the Banks herring spawning season as recommended by the MMO.
- 3.8.44. Paragraph 2.8.249 of NPS EN-3 refers to the timing of construction activities and the use of noise mitigation to reduce impacts on fish. Policy FISH2 of the East Inshore and East Offshore Marine Plans, 2014 states, among other things, that proposals should demonstrate that they will not have an adverse impact upon spawning and nursery areas and any adverse impacts should be minimised and then mitigated.
- 3.8.45. The ExA therefore considers that, in agreeing to a condition containing a seasonal restriction on piling activities, the relevant policy requirements regarding fish and shellfish ecology in NPS EN-3, the UK Marine Policy Statement and Policy FISH2 of the East Inshore and East Offshore Marine Plans, 2014, that seeks to minimise then

mitigate any adverse impacts on fish spawning areas, have both been met in this regard.

- 3.8.46. Consequently, the ExA agrees with the applicant's conclusions in the final version of ES Chapter 10 [\[REP5-021\]](#) that the impacts overall of the proposed development, both alone and cumulatively, on fish and shellfish ecology would be minor adverse which is not significant in EIA terms.
- 3.8.47. Taking all of this into account, the ExA concludes that, subject to the mitigation that has been secured in the dDCO, the proposed development alone and cumulatively would give rise to a little negative weight in terms of its impacts on fish and shellfish ecology within the overall [planning balance](#).

3.9. COMMERCIAL FISHERIES AND FISHING

Introduction

- 3.9.1. This section assesses the effects of the proposed development on commercial fisheries and fishing for both the project alone and cumulatively. However, the effects on fish and shellfish ecology are considered in section 3.8 of this Recommendation.
- 3.9.2. In the consideration of these matters, the Examining Authority (ExA) has had regard to:
- the requirements of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) including section 4.3
 - the National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) including section 2.8
 - UK Marine Policy Statement (2011)
 - East Inshore and East Offshore Marine Plans (2014), including Policy FISH1
 - any other important and relevant matters

The applicant's case

- 3.9.3. The applicant submitted a number of relevant documents to accompany the original submission, including the following:
- Environmental Statement (ES) Chapter 14: Commercial Fisheries [[APP-069](#)]
 - Commercial Fisheries Volume 2 Figures [[APP-102](#)]
 - Appendix 14.1: Commercial Fisheries Baseline Technical Report [[APP-170](#)]
 - Outline Fisheries Liaison and Co-existence Plan [[APP-288](#)] as updated by [[PD1-060](#)]
 - Outline Vessel Management Plan [[APP-294](#)] as updated by [[AS1-105](#)] and [[PD1-064](#)]
- 3.9.4. In ES Chapter 14 [[APP-069](#)] the applicant sets out its methodology for assessing impacts on commercial fisheries and fishing. As detailed in table 14.2 of ES Chapter 14 the applicant held a number of consultation meetings with interest groups including the Holderness Fishing Industry Group, Eastern Inshore Fisheries and Conservation Authority (EIFCA) and static gear fishermen operating out of local ports.
- 3.9.5. Table 14.4 of ES Chapter 14 provides a summary of the fishing fleets that are active within the study area, with the main activity undertaken being potting operations conducted by UK fishing fleets and targeting brown crab, whelk and lobster in both the offshore export cable corridor (offshore ECC) area and the array area. As recorded in table 14.4 of ES Chapter 14 [[APP-069](#)] the applicant has assessed there to be “negligible” fishing activity in relation to the following:
- UK dredge (mobile gear) in the offshore ECC
 - UK beam trawl (mobile gear) in the array area
 - EU beam trawl (mobile gear) in the offshore ECC
 - EU demersal otter trawl (mobile gear) in the array area
 - EU ‘Other’ fishing activity in the offshore ECC
- 3.9.6. Table 14.5 of ES Chapter 14 indicates the maximum design scenario for the project alone in relation to commercial fisheries. The range of impacts considered for the maximum design scenario includes a reduction in access to or exclusion from established fishing grounds during a construction duration of 3 years.

- 3.9.7. As indicated in table 14.6 of ES Chapter 14 embedded mitigation includes making refinements to the overall area of the proposed development, incorporating a commitment to using gravity base foundations for a maximum of 50% of foundations and utilising subsea cable burial as the preferred option. The applicant has committed to implement additional mitigation that includes ongoing liaison with the fishing industry in accordance with the Fishing Liaison with Offshore Wind and Wet Renewables (FLOWW), 2014 and 2015 guidance.
- 3.9.8. Further mitigation is to be provided through the Outline Fisheries Liaison and Coexistence Plan (Outline FLCP) [PD1-060] which makes specific reference to FLOWW guidance. The Outline FLCP also details other mitigation measures including the establishment of co-operation between the applicant and fishers via a Company Fisheries Liaison Officer, and provision for disturbance payments being made where appropriately evidenced.
- 3.9.9. In table 14.14 of ES Chapter 14 [APP-069], the applicant predicts that for the project alone there would be no significant adverse residual effects on commercial fisheries receptors during the construction, operation and maintenance, or the decommissioning phases of the proposed development. However, the applicant acknowledges that during the period of construction activities fishing fleets would be prevented from fishing in areas where construction or decommissioning activities are taking place. During operation the applicant acknowledges in ES Chapter 14 that certain fishing activities that require a greater distance from infrastructure for safe operation, for example twin-rigged trawl gears, are unlikely to take place within the array area. The applicant has assessed decommissioning effects as being the same or similar to those of construction.
- 3.9.10. For cumulative effects, as summarised in table 14.14 of ES Chapter 14, the applicant concludes that there would be no significant residual adverse effects for all activities except for the UK potting fishery in terms of: *“Impact 18: Reduction in access to, or exclusion from established fishing grounds”*. The applicant has assessed this cumulative residual impact as being *“Overall moderate, however contribution from the Project to this effect is de minimis.”*

Issues considered during the Examination

- 3.9.11. Based on the comments raised by Interested Parties (IPs) and the ExA’s review of the application documents, the key issue considered during the examination was as follows:

The applicant’s methodology for assessing effects, including the scope for fishing activities to take place within the operational array area

- 3.9.12. At D5 the applicant submitted an updated version of ES Chapter 14 [REP5-027] and updated Commercial Fisheries Figures [REP5-054]. The revised version of ES Chapter 14 took account of changes made to the proposed development, such as the introduction of the offshore restricted build area (ORBA). As described in more detail in Chapter 2 of this Recommendation the ORBA introduced a restriction on any infrastructure that would penetrate above sea level across a northern portion of the array area. The revised ES Chapter 14 also provided an update on the projects used in the cumulative assessment. However, the applicant’s assessment of effects in [REP5-027] remained unchanged from that provided in the original ES Chapter 14 [APP-069].
- 3.9.13. The applicant’s assessment of effects included the possibility of at least some commercial potting activities taking place within the array area during the operation

and maintenance period. In table 14.2 of ES Chapter 14 [APP-069] it was noted that the National Federation of Fishermen's Organisations (NFFO) did not agree with the applicant's assumption that potting activities could continue after construction.

- 3.9.14. In both ExQ1 [PD-014] and ExQ2 [PD-020] the ExA asked for justification of the applicant's assumption in ES Chapter 14 that some fishing activities, primarily potting, could take place in the array area once operational. The applicant responded in [REP2-051] and [REP4-107] that there would be no specific preclusion of fishing activities within the operational array area and that the decision as to whether or not to resume fishing activities would be made by the skippers of individual fishing vessels.
- 3.9.15. In its written representation [REP1-056] the MMO welcomed the applicant's continued engagement with the National Federation of Fishermen's Organisations (NFFO), EIFCA and local fishers and also welcomed the updated Outline FLCP which included updates the MMO had recommended. In its D2 submission [REP2-092] the MMO included the report it has commissioned: 'Sensitivity of the under 12m fishing fleet to offshore wind development in the east marine plan areas', June 2024, (the MMO Report). The applicant responded to this in its Comments on D2 Submissions [REP3-037], in which the applicant stated that the activity mapping indicated in the MMO Report is consistent with the understanding of the commercial fisheries baseline in ES Chapter 14. The applicant did not consider that the MMO Report resulted in any change to the commercial fisheries baseline or the assessment outcomes.
- 3.9.16. Furthermore, in ExQ1 CF1.2 and ExQ2 CF1.2 [PD-020] the ExA asked respectively whether NFFO or EIFCA had any outstanding concerns regarding the applicant's assessment of effects on commercial fishing activities or the mitigation proposed. No response was received from either NFFO or EIFCA to these questions. However, EIFCA's subsequent submission [AS-035] did not raise any specific methodological concerns beyond the potential impacts of electro-magnetic fields on marine fauna which it considered was the responsibility of the marine cable industry to investigate and not a single developer.

The ExA's reasoning on the applicant's methodology for assessing effects, including the scope for fishing activities to take place within the operational array area

- 3.9.17. No project-specific methodological concerns have been raised by either NFFO or EIFCA during the examination. The issue raised by EIFCA regarding electro-magnetic fields and marine fauna is considered in section 3.8 of this Recommendation. Furthermore, responses were not received from these organisations in relation to specific written questions directed to them by the ExA regarding the methodology for assessing the impacts on commercial fishing activities.
- 3.9.18. In addition, the ExA notes that Annex 4 of the D2 submission from the MMO [REP2-092] contains the final report on the 'Sensitivity of the under 12m fishing fleet to offshore wind development in the east marine plan areas', June 2024, in which a number of fishing vessel owners and operators were interviewed. Although this report indicates that there would be some displacement from offshore windfarm areas the sensitivity to wind farm development varied. As indicated in tables 8 and 12 of Annex 4 of [REP2-092] there are differences in the sensitivity analysis between activities and regions for potting activities. For example, there is a lower degree of sensitivity to the operational windfarm elements than to the construction

operations, and the East Yorkshire/ north Lincolnshire region is broadly of a lower sensitivity than the Wash and north Norfolk Coast region. This adds weight to the view of the applicant that some degree of commercial fishing activity might be able to take place within the operational array area.

- 3.9.19. The introduction of the ORBA would further increase the likelihood of fishing activities taking place within that northern part of the original array area post-construction. Conversely, the ExA considers that by reducing the overall area in which turbines could be located the introduction of the ORBA might lead to a closer spacing of wind turbine generators in the remainder of the array area which may further reduce the likelihood of fishing activities being undertaken there. Overall, the ExA concurs with the applicant's assessment in [\[PD1-081\]](#) that the introduction of the ORBA would not alter the conclusions of the ES regarding effects on commercial fishing and fisheries.
- 3.9.20. In relation to mitigation, condition 13(e)(iv) of schedule 10 and schedule 11, and condition 11(d)(iv) of schedules 12 to 15 of the applicant's final dDCO [\[AS-042\]](#) require that prior to the commencement of the licensed activities, or any part of those activities, details of the appointment and responsibilities of a fisheries liaison officer must be submitted to, and approved in writing by, the MMO. Also, condition 13(e)(v) of both schedule 10 and schedule 11 requires the submission, and written approval by the MMO, of a FLCP in accordance with the Outline FLCP.
- 3.9.21. Taking all of this into account, the ExA is satisfied that the applicant's assessment of effects of the proposed development on commercial fisheries and fishing, both for the project alone and cumulatively, is appropriate and that the proposed mitigation is adequately secured in the final dDCO [\[AS-042\]](#).

Conclusions

- 3.9.22. Paragraph 2.8.152 of NPS EN-3 states that applicants should consider both the direct impacts on fishing activity and also indirect impacts such as displacement and the ability of fishers to relocate. Policy FISH1 of the East Inshore and East Offshore Marine Plans, 2014, sets out a hierarchy of measures that proposals within areas of fishing activity should demonstrate, with the starting objective being that proposals should not prevent fishing activities on, or access to, fishing grounds.
- 3.9.23. Paragraph 3.8.7 of the Marine Policy Statement, March 2011 (as updated), states that: *"Marine developments have the potential to prevent, displace or encourage fishing activities. There are potential social, economic and environmental impacts of displacement of fishing activity caused by other sea uses, particularly if from well established fishing grounds."*
- 3.9.24. The applicant has assessed that the proposed development would result in the loss of fishing opportunities in areas where construction and decommissioning operations are taking place and the potential displacement of fishing within the operational array area for some types of activities, but not for potting. However, potting is the most prevalent fishing activity currently undertaken in the area and other types of commercial fishing are not as common. There have been no submissions received from any of the fishing interest groups and neither NFFO nor EIFCA responded to the ExA's WQs. EIFCA commented in its D5 submission [\[AS-035\]](#) that it was interested in the cable route, although it did not raise any specific objections and did not provide a further submission at D6.

- 3.9.25. In the final SoCG with the MMO [\[REP6-097\]](#) it is recorded that the impacts of the proposed development, both for the project alone and cumulatively, on commercial fisheries and fishing activities have been adequately assessed.
- 3.9.26. Overall, the ExA has not been presented with any coherent reason to disagree with the applicant's assessments of the significance of effects for both the project alone and cumulatively. Condition 13(e) of schedules 10 and 11 of the final dDCO [\[AS-042\]](#) requires the submission of a project environmental management plan which, among other matters, stipulates details of the appointment and responsibilities of a fisheries liaison officer and the submission of a final FLCP to accord with the Outline FLCP.
- 3.9.27. Consequently, the ExA considers that the applicant has appropriately considered both the direct and indirect impacts on commercial fisheries and fishing activities and appropriate mitigation is secured. Therefore, it is the ExA's view that the relevant policy requirements in NPS EN-3 and the Marine Policy Statement, have been met.
- 3.9.28. However, due to the displacement of commercial fishing activities during the construction and decommissioning phases, and subsequently the likely longer-term displacement for some types of commercial fishing activities within the operational array area, the ExA concludes that the proposed development would not be in overall accordance with Policy FISH1 of the East Inshore and East Offshore Marine Plans, 2014.
- 3.9.29. Taking all of this into account the ExA concludes that the proposed development alone and cumulatively would give rise to a little negative weight in terms of its impacts on commercial fisheries and fishing within the overall [planning balance](#).

3.10. SHIPPING AND NAVIGATION

Introduction

- 3.10.1. This section assesses the effects of the proposed development on shipping and navigation. However, the effects on aviation radar military and communication are considered in section 3.11 of this Recommendation and effects on infrastructure and other marine users are considered in section 3.7.
- 3.10.2. National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) section 2.8 requires applicants to engage with navigation stakeholders and conduct a Navigational Risk Assessment (NRA) in consultation with them (NPS EN-3, paragraphs 2.8.189 and 2.8.190). The Secretary of State (SoS) must ensure that the risk to navigational safety is minimized to 'As Low As Reasonably Practicable' (ALARP) (NPS EN-3, paragraph 2.8.331).
- 3.10.3. Additionally, in its consideration of shipping and navigation, the Examining Authority (ExA) has had regard to:
- the Overarching National Policy Statement for Energy EN-1 (NPS EN-1), as set out in section 4.5
 - National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3), as set out in section 2.8
 - UK Marine Policy Statement (MPS) 2011
 - Marine and Coastal Access Act (MCAA) 2009
 - the East Inshore and East Offshore Marine Plans (EIEOMP) 2014
 - Marine Guidance Note (MGN) 654 (M+F) Safety of Navigation: Offshore Renewable Energy Installations (OREIs) - Guidance on UK Navigational Practice, Safety and Emergency Response, issued in April 2021 by the Maritime and Coastguard Agency (MCA)
 - the International Maritime Organization (IMO) Safety of Life at Sea (SOLAS) Convention Chapter V (Safety of Navigation) 1974 (as amended), which is given effect in UK law by The Merchant Shipping (Safety of Navigation) Regulations 2020
 - Convention on the International Regulations for Preventing Collisions at Sea (COLREGs) (IMO 1972/77) as implemented by the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996
 - United Nations Convention on the Law of the Sea (UNCLOS) 1982
 - any matters prescribed in relation to the proposed development
 - any other important and relevant matters

The applicant's case

- 3.10.4. The applicant submitted several relevant documents in relation to shipping and navigation, and navigational risk assessment to accompany the application, including the following:
- Environmental Statement (ES) Volume 1 Chapter 15 Shipping and Navigation [\[APP-070\]](#)
 - ES Volume 2 Chapter 15 Shipping and Navigation Figures [\[APP-103\]](#)
 - ES Volume 3 Chapter 15 Appendix 1 Navigational Risk Assessment [\[APP-171\]](#)
 - ES Volume 3 Chapter 15 Appendix 2 Oil and Gas Platform Allision and Marine Access Study [\[APP-172\]](#)
 - Outline Vessel Management Plan [\[APP-294\]](#) superseded by [\[AS1-105\]](#) and later updated at PD1 [\[PD1-064\]](#)
 - Outline Offshore Operations and Maintenance Plan [\[APP-275\]](#)

- Offshore In-Principle Monitoring Plan [\[APP-276\]](#)

- 3.10.5. Volume 1 Chapter 15 of the Environmental Statement (ES), Shipping and Navigation [\[APP-070\]](#), includes a baseline environment, assessment methodology and an assessment of the potential impacts of the proposed development on shipping and navigation, supported by ES Volume 3 Chapter 15 Appendix 1 Navigational Risk Assessment [\[APP-171\]](#).
- 3.10.6. Consultation with stakeholders is explained in ES Chapter 15, paragraph 15.2 [\[APP-070\]](#). This included engagement with key organisations such as the Maritime and Coastguard Agency (MCA), Trinity House (TH), the UK Chamber of Shipping (UKCoS), and DFDS through dedicated meetings, as well as written consultation with 32 regular operators identified through vessel traffic surveys. The full list of regular operators consulted is provided in section 4.1 of the Navigational Risk Assessment [\[APP-171\]](#). Recognised sea lanes essential to international navigation are addressed in section 15.3.3 of ES Chapter 15, confirming that “*there are no IMO Routeing measures in proximity to the array area or offshore ECC*” of the proposed development in table 15.3 [\[APP-070\]](#).
- 3.10.7. The site selection and the evolution of the proposed Order limits in relation to existing navigation and shipping routes were addressed in section 6.1 of the ES Volume 3 Chapter 15 Appendix 1 [\[APP-171\]](#), with greater detail in Volume 1, Chapter 3: Project Description [\[APP-058\]](#) and ES Chapter 4: Site Selection and Consideration of Alternatives [\[APP-059\]](#).
- 3.10.8. The scope of the assessment, as detailed in section 15.3 of ES Chapter 15 [\[APP-070\]](#), defines the study area for the shipping and navigation assessment. This includes a minimum 10 nautical mile (nm) buffer around the array area, a 2nm buffer around the offshore Export Cable Corridor (ECC), and a 10nm buffer around the Offshore Reactive Compensation Platform (ORCP) area.
- 3.10.9. In 2022, site surveys for vessel traffic were conducted, each lasting 14 days, covering both summer and winter seasons for the shipping and navigation study area. Additionally, similar surveys were carried out in 2023 for the ORCP area, as detailed in the table 15.2 of ES Volume 1 Chapter 15 [\[APP-070\]](#).
- 3.10.10. The navigational features identified in the baseline data assessment are set out in table 15.3 of ES Volume 1 Chapter 15 [\[APP-070\]](#). These features include existing windfarms (such as Triton Knoll and others), the Inner Approaches Traffic Separation Scheme (TSS), Aids to Navigation (AtoN), marine aggregate dredging areas, port locations, oil and gas platforms, the ORCP, and Military Practice and Exercise Areas, among others.
- 3.10.11. The baseline surveys identified 13 main commercial shipping routes within the study area. All routes had 10 or fewer daily vessel movements, except for Route 1 (Humber Ports to Rotterdam) with a daily average of 16 vessels and Route 2 (Tees to Rotterdam) with a daily average of 12 vessels, as shown in table 15.4 of the ES [\[APP-070\]](#). However, only four of the 13 routes would require a deviation due to the proposed development, with each affected route having one or fewer vessels per day, as indicated in table 15.1 of the ES [\[APP-171\]](#).
- 3.10.12. Using the Maximum Design Scenario, as shown in table 15.6 of the ES [\[APP-070\]](#), the ES identifies the effects on shipping and navigational receptors through all phases of the development, from construction to decommissioning. These include the following:

- displacement of vessels.
- restriction of adverse weather routing.
- increased vessel-to-vessel collision risk (including between a third-party vessel and a project vessel).
- increased vessel-to-structure allision risk.
- reduction of under keel clearance.
- increased anchor interaction with sub-sea cables.
- a reduction in emergency response provision, including Search and Rescue (SAR) capability.

- 3.10.13. Section 15.5 of Chapter 15 [\[APP-070\]](#) outlines the methodology of the ES assessment. The significance of the effects is determined using an impact ranking matrix, which assesses the frequency and consequence of the impacts. These impacts are categorized based on the matrix set out in table 15.10 of this chapter. The methodology follows the Formal Safety Assessment (FSA) methodology described in section 3 of ES Volume 3 Chapter 15 Appendix 1 [\[APP-171\]](#), using the criteria such as baseline data, expert opinion, level of stakeholder concerns, time and/or distance of any deviation, number of transits of specific vessels and/or vessel types and lessons learned from existing offshore developments.
- 3.10.14. The ES provides a summary of the impacts for each phase of the proposed development, including the maximum residual impact, as set out in table 15.25 of the ES [\[APP-070\]](#). For shipping and navigation, the applicant assesses the significance of the effects as 'Broadly Acceptable' or 'Tolerable' during any phase of the proposed development, which the applicant considers to be not significant in Environmental Impact Assessment (EIA) terms.
- 3.10.15. The embedded mitigation measures for potential effects on shipping and navigation as detailed in the table 15.7 of ES Volume 1 Chapter 15 [\[APP-070\]](#) and table 18.1 of ES Volume 3 Chapter 15 Appendix 1 [\[APP-171\]](#) include, for example:
- the application of Safety Zones around structures during construction and major maintenance
 - the promulgation of information
 - a buoyed construction area in agreement with TH
 - the use of navigational aids such as lights and markings on offshore infrastructure
 - agreeing a final layout plan in consultation with TH and MCA with their approval
 - the Outline Cable Specification and Installation Plan (CSIP) for cable protection
- 3.10.16. Mitigation measures are secured through the Deemed Marine Licence (DML) conditions in Schedule 10 to 16 of the third draft Development Consent Order (dDCO) [\[PD1-024\]](#) provided at the procedural deadline 1 (PD1), prior to the start of the examination.
- 3.10.17. The NRA included in the application was developed and agreed upon in consultation with the MCA, TH, the UKCoS, and operational shipping stakeholders, ahead of the application's submission for examination, as detailed in tables 4.1 to 4.4 of ES Volume 3 Chapter 15 Appendix 1 [\[APP-171\]](#).
- 3.10.18. The NRA had been carried out in accordance with the methodology prescribed by the MCA in MGN 654. This requires the applicant to demonstrate assessed risks to be, 'Broadly Acceptable or Tolerable', or that sufficient controls (in other words mitigation measures) would be in place for residual risks to be ALARP after mitigation. That assessment, as undertaken by the applicant, was correlated to a rating of 'Broadly Acceptable or Tolerable' significance of effect, which the applicant

considered not significant in EIA terms, as detailed in paragraph 23.7 and table 21.1 of [\[APP-171\]](#).

- 3.10.19. Regarding navigational risk in relation to all users, risk of vessel to structure allision for 'passing vessel traffic' due to cumulative effects, was assessed by the applicant as 'tolerable and ALARP, and therefore not significant in EIA terms', as specified in paragraph 15.7.4 of [\[APP-070\]](#).
- 3.10.20. ES Chapter 15 section 15.7 [\[APP-070\]](#) addresses cumulative effects on shipping and navigation, while cumulative effects on marine infrastructure and other users, assessed separately in ES Chapter 18, Marine Infrastructure and Other Users [\[APP-073\]](#), are considered in section 3.7 of this Recommendation.
- 3.10.21. As identified in the ES [\[APP-070\]](#), the displacement of fishing activity due to the buoyed construction/decommissioning area is the primary inter-related effect for shipping and navigation. This displacement, including all vessels, is considered in the ES and further addressed in section 3.9 of this Recommendation. The applicant concluded that there would be no additional inter-related effects that would combine to create a more significant effect than those assessed for shipping and navigation, as mentioned in section 15.8 [\[APP-070\]](#).
- 3.10.22. The transboundary effects assessment in section 15.9 of ES [\[APP-070\]](#) concluded that no additional transboundary impacts are expected beyond those already assessed.

Issues considered during the examination

- 3.10.23. During the course of the examination, the applicant submitted revisions to the ES documents, as follows:
- ES Volume 1 Chapter 15 Shipping and Navigation [\[REP5-029\]](#)
 - ES Volume 2 Chapter 15 Shipping and Navigation Figures [\[REP5-055\]](#)
 - ES Volume 3 Chapter 15 Appendix 1 Navigational Risk Assessment [\[REP5-072\]](#)
 - Outline Vessel Management Plan [\[REP4a-102\]](#)
 - Outline Offshore Operations and Maintenance Plan [\[REP4a-092\]](#)
 - Offshore In-Principle Monitoring Plan [\[REP4a-073\]](#) updated D6 [\[REP6-054\]](#)
- 3.10.24. For clarity, the overall conclusion regarding significant effects on the shipping and navigation remains unchanged from that presented at the start of the examination [\[APP-070\]](#).
- 3.10.25. Based on comments raised by interested parties (IPs) and on the ExA's review of the application documents, the key issues considered during the examination are:
- Compliance with East Marine Plans
 - Offshore Cables after Decommissioning
 - Navigation Safety and NRA
- 3.10.26. As outlined in section 1.6 of this Recommendation, each of the change requests submitted during the examination relevant to shipping and navigation matters, did not give rise to any new or different likely significant effects, nor did they alter the overall conclusions presented in Chapter 15 of the ES [\[APP-070\]](#). In response to these changes and other matters considered during the examination, the applicant submitted updated versions of ES Chapter 15 Volume 1 [\[REP5-029\]](#) and Volume 2 [\[REP5-055\]](#) at deadline 5 (D5). These updates reflect the proposed development

changes, yet the conclusions regarding effects remain consistent with those set out in the original Chapter 15 of the ES at the start of the examination [\[APP-070\]](#).

Compliance with East Marine Plans

- 3.10.27. In response to the Marine Management Organisation (MMO)'s request [\[RR-042\]](#) to produce a compliance document about East Marine Plan areas, the applicant stated that compliance with the Marine Policy Statement and the East Inshore and East Offshore Marine Plans in relation to shipping and navigation are included in the policy compliance document [\[PD1-071\]](#).
- 3.10.28. In response to a question from the Examining Authority in its First Written Questions (ExQ1) [\[PD-013\]](#), MMO welcomed the policy compliance document but noted the absence of two policies: E-ECO-1 and E-TR-3 [\[REP1-056\]](#). The applicant subsequently clarified [\[REP2-053\]](#) that E-ECO-1, which relates to the consideration of cumulative impacts on ecosystems, had been addressed through the Environmental Statement's assessment of cumulative effects across relevant topic areas. Regarding E-TR-3, which supports proposals delivering tourism or recreation-related benefits, the applicant explained that the proposed development does not provide such benefits and therefore considered the policy not relevant. Following this clarification, the MMO reviewed the applicant's position and confirmed resolution of this matter [\[REP3-077\]](#).

Offshore Cables after Decommissioning

- 3.10.29. In ExQ1 [\[PD-013\]](#) Q1SN1.6, the ExA sought clarification from the applicant on whether offshore cables would remain in situ after decommissioning, noting that the draft Statement of Common Ground (SoCG) with the UKCoS [\[REP1-033\]](#) recorded the UKCoS's strong advocacy for the full removal of all infrastructure and cabling. The applicant, in [\[REP2-051\]](#) and [\[REP3-054\]](#), responded that it cannot confirm the decommissioning plan at this stage. It explained that a decommissioning programme will be submitted in accordance with the Energy Act 2004 and requirement 7 of the draft dDCO [\[REP1-006\]](#) and will be updated throughout the proposed development's lifespan to reflect evolving good practice, legislation, and policy requirements at the time of decommissioning. The applicant noted that decisions on infrastructure removal, including cables, will be made in conjunction with statutory authorities at the time of decommissioning.
- 3.10.30. The UKCoS [\[REP2-082\]](#) acknowledged that decommissioning will be carried out in line with applicable legislation and guidance at the time, which may permit cables to be left in situ. However, it reiterated its strong preference for the full removal of all infrastructure, including subsea cables, citing safety, environmental, and future seabed use concerns. The UKCoS referenced IMO Resolution A.672(16), Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the Exclusive Economic Zone, adopted on 19 October 1989, and highlighted risks such as cable exposure post-decommissioning, hazards to anchoring vessels, and constraints on future seabed users. The UKCoS concluded that while it would accept the applicant following the legislation, regulation, and guidance in place at the time of decommissioning, it may seek to lobby for changes to legislation to ensure full removal of infrastructure, including cables.

Navigation Safety and NRA

- 3.10.31. At D1, the MCA submitted a detailed written response to the proposed development's shipping and navigation information [\[REP1-044\]](#). The MCA acknowledged the consultation with stakeholders regarding cumulative effects and welcomed the changes to the array area Order limits made post-Preliminary Environmental Information Report (PEIR). Additionally, the MCA noted the increase in navigable sea room available due to the applicant's commitment to introduce the Offshore Restricted Build Area (ORBA).
- 3.10.32. The MCA also stated [\[REP1-044\]](#) that the mitigation measures listed in table 18.1 [\[APP-171\]](#) and table 15.7 [\[APP-070\]](#) are relevant and appropriate and will effectively reduce the identified risks to ALARP.
- 3.10.33. The MCA set out [\[REP1-044\]](#) that the turbine layout design must adhere to MGN 654 and will require approval from both the MCA and TH before construction begins to minimise risks to surface vessels. The MCA emphasised the importance of aligning all structures in straight rows and columns, with at least two lines of orientation. In response [\[REP3-038\]](#), the applicant confirmed that the final layout will be discussed and agreed with the MCA and TH, consistent with the approach outlined in table 15.7 of ES Chapter 15 [\[APP-070\]](#) and table 18.1 of the NRA [\[APP-171\]](#). Further, the applicant added that the approval of the layout by the MMO, in consultation with the MCA and TH, is secured through DCO Schedule 10 and Schedule 11, Part 2 – Condition 13(1)(a).
- 3.10.34. The MCA also addressed other safety-related matters, stating in [\[REP1-044\]](#) that all lighting and marking arrangements must be agreed upon with both the MCA and TH. The MCA supports Safety Zones during the construction, maintenance, and decommissioning phases, but noted that further consideration would be given once a separate application for the Safety Zones is submitted as a statutory consultee. In its response [\[REP3-038\]](#), the applicant confirmed that the application for the Safety Zones would be made post-consent and hence falls outside of this Development Consent Order process.
- 3.10.35. To assess concerns raised by numerous operators of other offshore infrastructure regarding cumulative routing and navigational risks, the ExA questioned the Ørsted IPs about these concerns in the ExQ1 [\[PD-013\]](#) Q1SN1.2, referencing the applicant's response to these Relevant Representations [\[PD1-071\]](#). The Ørsted IPs responded [\[REP2-076\]](#), stating that they are considering whether to instruct a consultant to review the applicant's NRA. To clarify further, the ExA asked in further written questions (Q2SN1.1) [\[PD-020\]](#) whether a decision had been made to review the NRA, and if so, to outline any concerns identified and how they might be addressed. In response, the Ørsted IPs [\[REP4-149\]](#) stated that an internal review of the NRA was conducted and found "*that the applicant's NRA does not contain a sufficiently broad risk assessment*". Furthermore, when asked to expand on this statement by the ExA in Issue Specific Hearing 6 (ISH6) [\[EV11-005\]](#), Video Recording], a representative of the Ørsted IPs was present but, due to the absence of a technical representative, advised that they were unable to provide further explanation at the hearing. Consequently, the matter was recorded as action point 14 [\[EV11-002\]](#). Finally, the Ørsted IPs confirmed at D5 [\[REP5-176\]](#) that an external review of the applicant's NRA will not be commissioned.
- 3.10.36. In ExQ1 [\[PD-013\]](#), the ExA inquired about the methodology and data sources used in the NRA detailed in Volume 3, Chapter 15 [\[APP-171\]](#). This enquiry aimed to evaluate the appropriateness of the NRA for the proposed development and was

addressed to the MCA, TH, and UKCoS. In response, MCA [REP2-071], UKCoS [REP2-082], and TH [REP2-066] confirmed that the data sources utilised in the NRA are appropriate and the methodology is satisfactory, with no concerns raised.

- 3.10.37. The applicant re-assessed the deviation of routes following the same NRA methodology, considering the implementation of the introduction of ORBA, and it was determined from this process, as detailed in annex F.3 of [REP5-072], that only three of the 13 main pre-windfarm routes identified for the post-windfarm with ORBA would now be anticipated to require a potential deviation [REP5-072]. Route 12, which is used by DFDS as an adverse weather route, no longer requires a deviation as shown in the figure 8 below [REP5-072].

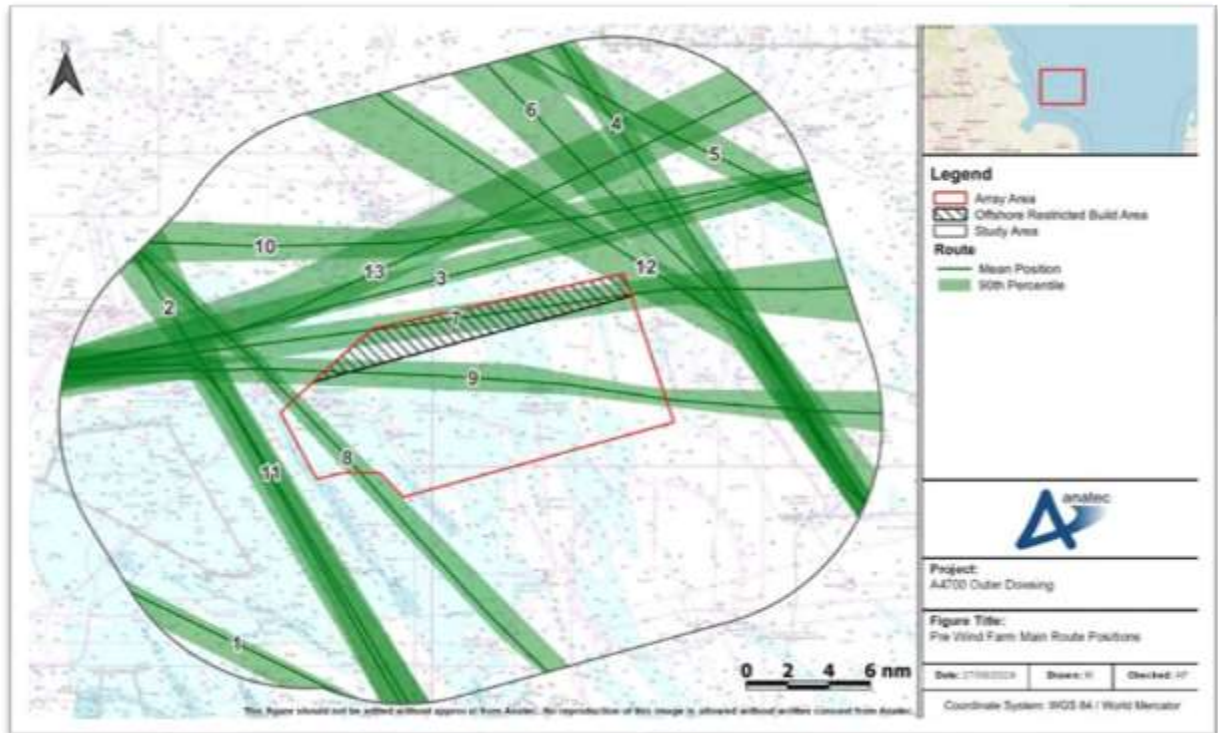


Figure 8 – Main routes positions prior to the proposed development with ORBA [REP5-072]

- 3.10.38. The introduction of the ORBA would reduce the estimated increase in post-windfarm collision risk from 11.7% to 8.5% compared to the pre-windfarm scenario, thereby lowering the overall risk of collisions (annex F.5) [REP5-072].
- 3.10.39. The MCA [REP1-044] initially required changes to a requirement and a condition within the dDCO. Specifically, for conditions 11(10), Part 2, Schedules 10 and 11; condition 8(10), Part 2, Schedules 12-15; and condition 6(5), Part 2, Schedule 16, the MCA [REP1-044] stated that any dropped object posing a navigation hazard must be reported within 6 hours. However, the final dDCO [AS-042] stipulates that this should be done "as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident." Consequently, the MCA agreed [REP5-137] to this wording, and the MMO [REP6-097] was content with the condition as proposed by the applicant, which is included in the final dDCO.
- 3.10.40. Signed SoCGs with the UKCoS [REP5-138], the MCA [REP5-137], and TH [REP5-140] were submitted at D5. These SoCGs indicated that all issues related to shipping and navigation had been resolved with the MCA, UKCoS, and TH. The applicant, in agreement with the MCA, TH and UKCoS, concluded that both project-

alone and cumulative impacts, including main route deviations, were unlikely to be significant in EIA terms, and that the risks associated with the proposed development, considered both alone and cumulatively, would be ALARP, provided that the mitigation measures outlined in Chapter 15 of the ES on Shipping and Navigation were implemented [\[REP5-029\]](#) and [\[REP5-072\]](#). The UKCoS acknowledged that the impacts, with the proposed mitigation measures and required monitoring in place, were tolerable or broadly acceptable both in isolation and cumulatively [\[REP5-138\]](#).

ExA's reasoning

- 3.10.41. Upon examining the submitted evidence, the ExA believes that the applicant has appropriately considered relevant marine policies of the MCAA, including policy PS2, which requires proposals to maintain space for safe navigation and consider cumulative impacts, and policy PS3, which requires compatibility with existing port and harbour activities. The ExA finds that the applicant has adequately demonstrated avoidance or mitigation of adverse impacts on shipping activity, legitimate uses of the sea, freedom of navigation, and navigational safety, a position supported by the MMO, which reviewed the applicant's approach and confirmed compliance with the relevant policy matters of the EIEOMP [\[REP3-077\]](#).
- 3.10.42. The ExA acknowledges that the applicant [\[REP3-054\]](#) has not confirmed whether offshore cables will be removed or left in situ following decommissioning, citing the need for flexibility to respond to evolving legislation, policy, and good practice over the proposed development's lifespan. The ExA also recognises the UKCoS's strong position [\[REP2-082\]](#) in favour of full removal of all infrastructure, including subsea cables, due to concerns about navigational safety, environmental risks, and future seabed use. However, the UKCoS has also acknowledged that decommissioning will be governed by the applicable legal and regulatory framework at the time, and that it accepts this, while reserving the right to advocate for legislative change. In light of the above, the ExA considers that the applicant's current position is consistent with statutory requirements and industry practice, and that the issue of cable removal would be appropriately addressed through the decommissioning programme and further considered at the decommissioning stage, when it can be informed by up-to-date environmental data, technological developments, and regulatory guidance. Therefore, considering the signed SoCG with the UKCoS [\[REP5-138\]](#) and the applicant's commitment to compliance with evolving legislation and policy through the decommissioning programme, the ExA is satisfied that requirement 7 of the final DCO [\[AS-042\]](#), which mandates the submission of a decommissioning programme pursuant to the Energy Act 2004 for approval by the SoS prior to construction, provides an appropriate mechanism to secure this.
- 3.10.43. All parties reached a positive agreement by the end of the examination period that the proposed development would not result in an unacceptable navigational safety hazard. The ExA is satisfied that an acceptable level of navigational safety would be secured through the mitigation measures and conditions specified in the DMLs of Schedule 10 to 16 of the final dDCO [\[AS-042\]](#), including compliance with MGN 654, appropriate lighting and marking, and the requirement, under Schedule 10, Part 2, Condition 13(1)(a)(x) for the MMO, in consultation with TH and the MCA, to approve the final layout.
- 3.10.44. The ExA considers that the proposed development is acceptable concerning navigational safety and NRA, given the absence of significant objections from relevant statutory bodies or IPs and the appropriate securing of mitigation measures. The ExA acknowledges the robustness of the evidence in the ES [\[REP5-](#)

[029](#)] and [\[REP5-072\]](#), which indicates that the residual effect on navigational safety would be either tolerable or broadly acceptable, depending on the development phase.

Conclusions

3.10.45. The ExA agrees with the assessment in ES Chapter 15 Shipping and Navigation [\[REP5-029\]](#), concluding that the residual effects of the proposed development, both alone and cumulatively, on these matters would range from Broadly Acceptable to Tolerable, and that navigational risks have been assessed and, where appropriate, reduced to a level that is ALARP, at any phase of the proposed development.

3.10.46. The relevant requirements and conditions as part of the DML in the final dDCO [\[AS-042\]](#), secure the proposed mitigation measures [\[REP5-029\]](#). For example, Schedules 10 and 11 of the DML include:

- compliance with MGN 654 (Condition 15)
- appropriate lighting and marking (Condition 8)
- cable burial and protection, an aids to navigation management plan, and an offshore operations and maintenance plan (Condition 13); and
- a requirement for the MMO, in consultation with Trinity House, the United Kingdom Hydrographic Office, and the MCA, to approve the final layout (Condition 13).

The ExA is satisfied that the applicant has effectively demonstrated that the impacts associated with the proposed development can be satisfactorily mitigated through these measures.

3.10.47. The ExA concludes that the proposed development, both alone and cumulatively, is in accordance with NPS EN-1, NPS EN-3, MPS 2011, the East Marine Plans, and relevant national and local policies and legislation concerning shipping and navigation matters. There are no additional significant or relevant considerations.

3.10.48. Therefore, in the [planning balance](#), the ExA considers that shipping and navigation matters carry a little negative weight against the making of the Order, due to the presence of residual impacts identified in the applicant's assessment in table 15.25 [\[REP5-029\]](#). However, these impacts are considered tolerable or broadly acceptable with mitigation, are not significant in EIA terms, and the proposed development remains compliant with relevant statutory and policy requirements in relation to shipping and navigation.

3.11. CIVIL AND MILITARY AVIATION AND COMMUNICATION

Introduction

3.11.1. This section considers the effects of the proposed development on civil and military aviation and related communication. Section 3.7 - Oil, Gas and Other Offshore Infrastructure of this Recommendation provides consideration of helicopter access in relation to oil and gas platforms.

3.11.2. In the consideration of these matters, the Examining Authority (ExA) has had regard to:

- Air Navigation Order (ANO) 2016/765 (2022)
- the requirements of Overarching National Policy Statement for Energy EN-1 (NPS EN-1) including section 5.5 and the National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) including section 2.8.
- Marine Policy Statement (2011)
- East Inshore and East Offshore Marine Plans (2014), including Policy DEF1
- any other important and relevant matters.

The applicant's case

3.11.3. Volume 1 of Environmental Statement (ES) Chapter 16: Aviation, Radar, Military and Communication [\[APP-071\]](#) provides an assessment of effects on receptors. More specifically, it provides:

- an overview of the existing and future baseline environment, including civil aerodromes, Ministry of Defence (MoD) and NATS en Route LTD (NATS) assets, other aviation activities and meteorological radio facilities
- a summary of the assumptions and limitations of the assessment
- an assessment of potential environmental effects of the proposed development in isolation and cumulatively during the construction, operation and maintenance and decommissioning phase
- a summary of embedded mitigation and additional mitigation

3.11.4. Volume 1 of Chapter 16 ES is supported by:

- Volume 2 Figures of ES Chapter 16 [\[APP-104\]](#) which provides plans to identify airports, airfields and radar, details of the airspace environment oil and gas platforms and helicopter routing in the context of the proposed development.
- Volume 3 Appendices of ES Chapter 16 Aviation Technical Report [\[APP-173\]](#) provides an analysis of airspace and radar modelling along with the identification of potential mitigation.
- A Helicopter Access Report [\[APP-175\]](#) which forms appendix 1 to Chapter 18 of the ES Marine Infrastructure and Other Users [\[APP-073\]](#) is also of relevance.

3.11.5. In response to advice issued by the ExA under section 51 of the Planning Act 2008, the applicant submitted a revised Volume 1 of Chapter 16 of the ES [\[AS1-042\]](#) to address labelling errors, minor discrepancies and omissions in July 2024, prior to the Preliminary Meeting (PM).

Scope and methodology

3.11.6. Section 16.5.1 of the revised ES [\[AS1-042\]](#) lists impacts that have been scoped in to the assessment during each phase of the proposed development as well as those scoped out. Potential effects relate to the physical presence of wind turbine

generators (WTGs) which may limit access or safe passage or through their impacts on radar. Effects scoped into the assessment are summarised below:

- construction – creation of an aviation obstacle environment and increased air traffic in the area related to windfarm activities.
- operation and maintenance – creation of an aviation obstacle environment, increased air traffic in the area related to windfarm activities and impacts on NATS Primary Surveillance Radar (PSR) Cromer and Claxby as well as MoD Air Defence (AD) PSR Staxton Wold and Neatishead
- decommissioning – creation of an aviation obstacle environment and increased air traffic in the area related to windfarm activities

3.11.7. The study area for Chapter 16 of the ES [\[AS1-042\]](#) is described in section 16.4.1 of the ES and comprises the array area and offshore export cable corridor (ECC) along with airspace between the array area and the UK mainland extending from the MoD AD PSR radar at Staxton Wold to the north and to Norwich Airport to the south. Section 16.4.1 also identifies the criteria used to identify receptors in the study area including airports and radars as identified in figure 16.1 [\[APP-104\]](#).

3.11.8. The ES has been informed by consultation with relevant stakeholders prior to the submission of the Development Consent Order (DCO) application as detailed in table 16.2 [\[AS1-042\]](#).

3.11.9. The existing baseline environment is described in section 16.4.3 of the ES [\[AS1-042\]](#). Whilst WTG effects on secondary surveillance radars are not anticipated due to the distance of receptors, radar modelling and airspace analysis identifies that radar line of sight (RLoS) would exist between PSRs and proposed WTGs as detailed in the Aviation Technical Report [\[APP-173\]](#).

3.11.10. To the south and west of the proposed array area is the Greater Wash Transponder Mandatory Zone (TMZ) which is in the vicinity of a number of existing offshore windfarms, namely, Race Bank, Triton Knoll and Dudgeon and Sheringham Shoal and is used to mitigate the impacts of existing WTGs on NATS PSRs. Within the TMZ, the use of transponders is mandatory which allows aircraft to be detected by secondary surveillance radar. Humberside Airport and Norwich Airport are the closest radar equipped airports to the array area at approximately 90 kilometres (km) to the west and south respectively but section 16.4.3.2 of the ES [\[AS1-042\]](#) considers that the array area is not below the airspace within any published instrument flight procedure for either airport.

3.11.11. The closest NATS PSRs are located at Cromer 64km to the south and Claxby 89km to the west of the array area. NATS provides radar facilities for civil and military aircraft. The closest MoD AD radars to the array area are at Staxton Wold and Neatishead which are located approximately 119km to the north-west and 87km to the south respectively. The two radars help to provide airspace surveillance and security for the UK and to fulfil international obligations. The closest PSR equipped military airfields are at Royal Air Force (RAF) Coningsby 92km to the west, RAF Waddington 109km to the west and RAF Marham 100km to the south of the array area.

3.11.12. Airspace managed for military aviation purposes as identified in figure 16.2 [\[APP-104\]](#) includes defined areas, including Danger Areas such as those associated with the Donna Nook and Holbeach Air Weapons Ranges which lie approximately 44km to the west and 79km to the south west of the array area.

- 3.11.13. As identified in figure 16.3 [\[APP-104\]](#), Helicopter Main Routing Indicators (HMRI) are within the study area, including HMRI 4 and HMRI 6 which pass over the array area. Section 16.4.3.4 of the ES [\[AS1-042\]](#) states that no concerns have been raised by NATS regarding impacts on HMRI 4 or HMRI 6.
- 3.11.14. Offshore helidecks on oil and gas platforms are also identified in figure 16.3 [\[APP-104\]](#). They include the Malory and Galahad platforms within the array area that are operated by Perenco. Galahad is expected to be decommissioned within three years according to section 16.4.3.5 of the ES [\[AS1-042\]](#). The Barque PB platform is located 0.75 nautical miles (nm) from the eastern edge of the array area and is operated by Shell. Figure 16.3 also identifies 9nm consultation zones around helicopter destinations.
- 3.11.15. The nearest Search and Rescue (SAR) base is at Humberside Airport approximately 90km to the west of the array area. The closest Met Office weather radar is located at Ingham 106km to the west of the array area. Section 16.4.3.8 of the ES [\[AS1-042\]](#) confirms that this distance is significantly beyond the 20km safeguarded zone around the facility.
- 3.11.16. In relation to the future baseline, section 16.4.4 of the ES [\[AS1-042\]](#) identifies the increasing amount of oil and gas infrastructure in the North Sea being decommissioned which may reduce the volume of helicopter traffic.
- 3.11.17. The Maximum Design Scenario (MDS) considered for civil and military aviation and communication for the project alone is set out in table 16.4 [\[AS1-042\]](#). For impacts related to aviation obstacles during each phase of the proposed development, scenarios for both the maximum number of WTGs (100) and the maximum blade tip height above Lowest Astronomical Tide (LAT) (up to 50 WTGs at 403 metres (m)) are assessed along with the MDS for other offshore elements of the proposed development. This MDS is also applied to the assessment of impacts on MoD and NATS PSR during the operational and maintenance phase. The MDS for the assessment of increased air traffic related to wind farm activities is specified as a maximum of 384 return helicopter trips during the construction and decommissioning phases and 2480 yearly helicopter return trips during the operational and maintenance phase.

The applicant's assessment of effects and proposed mitigation

- 3.11.18. Section 16.5.3 of the ES [\[AS1-042\]](#) sets out embedded mitigation measures for civil and military aviation and communication and they are summarised in table 16.5 for each phase of the proposed development. Marking and lighting of obstacles would be in accordance with Article 223, Maritime and Coastguard Agency (MCA) Marine Guidance Note (MGN) 654 and MoD requirements. Information, notifications and charting of the proposed development will also be employed via Notice to Airmen and obstacle details will be passed on the Civil Aviation Authority (CAA) for dissemination and inclusion on charts. More generally, the adherence of aviation stakeholders to relevant guidance is also identified as embedded mitigation.
- 3.11.19. Additional mitigation measures are identified for impacts on NATS Cromer and Claxby and MoD AD Staxton Wold and Neatishead PSRs during the operation and maintenance and decommissioning phases for the proposed development are identified in table 16.9 [\[AS1-042\]](#). However, the scope of this mitigation is to be agreed with NATS and the MoD. Potential options for mitigation are identified in section 16.7.2.3 of the ES. For NATS PSR, they include blanking over the array and introducing a TMZ. For the MoD PSR, reference is made in Chapter 16 of the ES to

the work of the Air Defence and Offshore Wind Windfarm Mitigation Task Force which has been formed as a collaboration initiative between the MoD, the Department for Energy Security and Net Zero (DESNZ), the Crown Estate and the Offshore Wind Industry Council.

- 3.11.20. Effects of the project alone are assessed in section 16.7 of the ES [\[AS1-042\]](#). Table 16.19 summarises effects. Significant effects adverse (major) are identified prior to additional mitigation for impacts of NATS Cromer and Claxby PSR and MoD Staxton Wold and Neatishead AD PSR during the operation and maintenance and decommissioning phase for the proposed development alone.
- 3.11.21. The assessment in the ES [\[AS1-042\]](#) explains that the radar modelling detailed in the Aviation Technical Report [\[APP-173\]](#) shows that at least some WTGs with blade tip heights of between 276m and 400m Above Mean Sea Level (AMSL) would be theoretically detectable by the identified NATS and MoD PSRs. The final number of WTGs that would be detected would be dependent on the final design of the proposed development. Nevertheless, when operational, the ES identifies that the WTGs have the potential to generate false targets on current generation radar displays as they are unable to differentiate between moving WTG blades and aircraft.
- 3.11.22. However, with additional mitigation in place, the residual effect is assessed by the applicant to be not significant. Table 16.6 of the ES [\[AS1-042\]](#) defines not significant as the proposed development having little effect or that the level of effect would be acceptable to the aviation receptor. No other significant effects are identified for the proposed development alone.

Cumulative impact assessment

- 3.11.23. The applicant's approach to the cumulative impact assessment is set out in section 16.8 of the ES [\[AS1-042\]](#). Other projects considered are identified in table 16.7. Table 16.8 identifies the MDS for the cumulative assessment of effects.
- 3.11.24. A cumulative impact assessment is provided in section 16.8 [\[AS1-042\]](#). Table 16.9 summarises effects and residual impacts. Significant effects adverse (major) are identified prior to additional mitigation for impacts of NATS Cromer and Claxby PSR and MoD Staxton Wold and Neatishead AD PSR during the operation and maintenance and decommissioning phase cumulative effects .
- 3.11.25. The same additional mitigation measures are identified for impacts on NATS Cromer and Claxby and MoD AD Staxton Wold and Neatishead PSRs during the operation and maintenance and decommissioning phases for the proposed development cumulatively as for the project alone and identified in table 16.9 [\[AS1-042\]](#). With this additional mitigation, the residual cumulative effect is also assessed as being not significant.
- 3.11.26. No other significant effects are identified for the proposed development cumulatively.

Issues considered during the examination

- 3.11.27. Based on the comments raised by interested parties (IPs) and the ExA's review of the application documents, the key issues considered during the examination were:
- mitigation for Staxton Wold and Neatishead AD PSR and Cromer and Claxby PSR

- the consideration of physical obstruction and related mitigation for MoD Holbeach Air Weapons Range, Wide Area Multilateral (WAM) network to low flying aircraft

3.11.28. Helicopter access was also considered during the examination. However, this was in the context of implications for operators of oil and gas platforms and offshore wind farms. Chapter 18 of the ES – Marine Infrastructure and Other Users [APP-073] also provides an assessment of interference to helicopter access to oil and gas infrastructure. Accordingly, section 3.7 - Oil, Gas and Other Offshore Infrastructure, of this Recommendation sets out helicopter related issues considered during the examination.

3.11.29. In each of the change requests identified in section 1.6 of this Recommendation, no new or different likely significant effects or overall conclusions from those in the Chapter 16 of the ES [AS1-042] are identified. At deadline (D) 5, the applicant submitted an updated Volume 1 [REP5-031] and Volume 2 [REP5-056] of Chapter 16 of the ES to reflect the changes to the proposed development and other matters considered during the examination as identified below. The conclusions regarding effects are the same as those identified in the Chapter 16 of the ES considered at the start of the examination [AS1-042].

Mitigation for Staxton Wold and Neatishead AD PSR and Cromer and Claxby PSR

3.11.30. The Defence Infrastructure Organisation (DIO) relevant representation [RR-016] stated that the turbines from the proposed development would be detectable to the AD radar at Remote Radar Head (RRH) Staxton Wold and RRH Neatishead. It went on to confirm that the proposed turbines would create false aircraft returns which *“would reduce the RAF’s ability to detect and deter aircraft in United Kingdom sovereign airspace, thereby preventing it from effectively performing its primary function of Air Defence of the United Kingdom.”*

3.11.31. The DIO’s relevant representation also acknowledged that the applicant’s ES [AS1-042] identified the need to mitigate these impacts. However, the applicant had not provided a mitigation scheme to the DIO for assessment. Until such time that mitigation is considered and agreed by the DIO, it considered that it must object to the proposal.

3.11.32. The ExA sought clarification from the applicant and DIO during the course of the examination on the likely scope and timing of mitigation and the means by which it would be secured. This included the feedback from both parties to ExA’s first written questions (ExQ1) [REP2-051 and REP2-072] and further written questions [REP4-107 and REP4-131] and orally in questions to the applicant at issue specific hearing (ISH) 2 [REP3-041] and ISH6 [REP4a-117]. Following discussion at ISH6, at D4a, the applicant updated the draft Development Consent Order (dDCO) to include a new requirement (R) 33 – Ministry of Defence Radar Mitigation [REP4a-006]. The requirement sought to ensure that no WTG would be permitted to rotate its rotor blades on its horizontal axis until the Secretary of State (SoS), having consulted with the MoD, confirmed satisfaction that the appropriate mitigation, if required, would be implemented.

3.11.33. In response to a subsequent request for feedback on the draft R33 from the ExA [PD-027] on 5 March 2025, the MoD confirmed that, in principle, such a requirement could secure appropriate mitigation. However, the MoD sought revisions to the wording of R33 [REP5-177], including a commitment to ensure that any implemented mitigation would be maintained for the life of the authorised

development. The MoD concluded by stating that subject to its requested wording of R33 being included in any DCO that might be made, the MoD would be content to withdraw its objection on this matter.

- 3.11.34. At D6, the applicant submitted a revised dDCO [\[REP6-008\]](#) that included the wording of R33 as requested by the MoD. However, the applicant was unable to submit a final signed Statement of Common Ground (SoCG) with the MoD by the close of the examination and no further feedback on the issue from the DIO or MoD was received by the ExA. The applicant submitted a draft SoCG with the MoD [\[REP6-098\]](#) at D6 that indicated that the matter was agreed but this is not confirmed by the MoD or DIO.
- 3.11.35. In relation to NATS PSR at Cromer and Claxby, NATS's relevant representation [\[RR-044\]](#) confirmed that it was in discussion with the applicant regarding impacts. In response to ExQ1, question CM 1.1 [\[REP2-051\]](#), the applicant proposed a new requirement in the dDCO [\[REP2-007\]](#), R32 - Cromer and Claxby Radar Mitigation to ensure that no part of any WTG (excluding foundations) is to be erected until a primary radar mitigation scheme is agreed in advance with NATS and approved by the SoS.
- 3.11.36. At ISH6, the ExA sought confirmation from NATS on whether it considered the applicant's drafting of R32 to be appropriate [\[REP4a-117\]](#). NATS confirmed that it was still in discussion with the applicant and the MoD on this matter. At D5, NATS [\[REP5-178\]](#) responded to the ExA's Rule 17 request for further information [\[PD-027\]](#) to confirm that it had reached an agreement with the applicant regarding impacts and mitigation for the Cromer and Claxby radar. With the agreed wording included as a requirement in the dDCO, NATS was prepared to withdraw its relevant representation. The applicant confirmed [\[REP5-178\]](#) that it agreed with NATS that the requirement as requested should be included and this was reflected in the dDCO [\[REP5-002\]](#).
- 3.11.37. Orsted Hornsea Project Four Limited's [\[RR-051\]](#) relevant representation stated that it was *"an active member ensuring the co-existence of radar and offshore wind and must be kept informed of any proposals by the Outer Dowsing Applicant in this regard"*.
- 3.11.38. Race Bank Wind Farm Limited [\[RR-054\]](#) also sought clarification regarding the extent to which the applicant had considered existing radar mitigation solutions to ensure that they are not adversely affected. The applicant duly responded [\[PD1-071\]](#) confirming that the Greater Wash TMZ forms parts of the radar mitigation for Race Bank and that it was confident that mitigation would not adversely affect existing schemes. In response to ExQ1 CM 1.10, Both the applicant [\[REP2-051\]](#) and Orsted [\[REP2-076\]](#) also acknowledged that updates and coordination would be facilitated by their respective memberships of the Offshore Wind Industry Council Aviation Task Force.

The ExA's reasoning on mitigation for Staxton Wold and Neatishead AD PSR and Cromer and Claxby PSR

- 3.11.39. The ExA notes that by the close of the examination, NATS agreed with drafting of R32 and withdrew its relevant representation. The ExA is therefore satisfied that mitigation for NATS PSR at Cromer and Claxby is adequately secured in the dDCO. Due to amendments to other requirements, this requirement is numbered R31 in the final version of the dDCO [\[AS-042\]](#).

3.11.40. In relation to AD PSR at RRH Staxton Wold and RRH Neatishead, the ExA can confirm that the MoD's drafting of the relevant requirement has been included by the applicant in the dDCO. Due to amendments to other requirements, this requirement is numbered R32 in the final version of the dDCO [\[AS-042\]](#). Based upon the MoD's D5 submission [\[REP5-177\]](#), the ExA considers that R32 of the final dDCO [\[AS-042\]](#) adequately secures the necessary mitigation and the MoD's concern on this matter has been addressed. However, for the avoidance of doubt, the SoS may wish to confirm this with the MoD as it has not commented on the final dDCO [\[AS-042\]](#).

3.11.41. Subject to the above, in relation to impacts on PSR, the ExA considers that the SoS can be satisfied that the necessary mitigations are secured to address risks to national security and physical safety as required by NPS EN-1 paragraph 5.5.60. The ExA also concurs with the applicant's conclusion of effects on PSR in ES [\[REP5-031\]](#), namely, that there would be no residual significant effects with technical solutions agreed by NATS and the MoD in place.

The consideration of physical obstruction and related mitigation for MoD Holbeach Air Weapons Range, WAM network and low flying aircraft

3.11.42. The DIO's relevant representation [\[RR-016\]](#) identified concerns regarding physical obstruction to low flying aircraft that would require the submission, approval and implementation of an aviation lighting scheme and data to ensure that new structures could be accurately charted to allow deconfliction.

3.11.43. In response to ExQ2, question CM 1.3 and CM 1.8, the DIO [\[REP2-072\]](#) also identified potential conflict during the construction phase of the proposed development on the Holbeach Air Weapons Ranges and the East 1 WAM network in the vicinity of the Haven arising from the presence potential plant machinery, temporary storage and other construction related materials. The DIO also recommended changes to the dDCO to manage these potential issues.

3.11.44. As requested by the DIO, the applicant amended R18 – Code of Construction Practice of the dDCO [\[AS-042\]](#) to include the MoD as a consultee to avoid conflict with the Holbeach Air Weapons Ranges and WAM network during construction. In addition, R27 – Aviation Lighting provides that the undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2016(a) and determined necessary for aviation safety in consultation with the DIO Safeguarding and as directed by the CAA. R27 also requires lighting installed to meet MoD requirements must also remain operational for the life of the authorised development unless agreed in writing by the MoD.

3.11.45. Condition 10 within the Deemed Marine Licences (DMLs) in schedules 10, 11, 12, 13, 14 and 15 of the dDCO [\[AS-042\]](#) also requires the submission of sufficient data to allow the proposed development to be charted. The MoD [\[REP5-177\]](#) confirms that these provisions in the DCO address its concerns on these matters.

The ExA's reasoning on the consideration of physical obstruction and related mitigation for MoD Holbeach Air Weapons Range, WAM network and low flying aircraft

3.11.46. The ExA confirms that the dDCO [\[AS-042\]](#) includes the provisions requested by the MoD to address its concerns regarding physical obstruction. As such, the ExA is satisfied that the statutory requirements regarding lighting to tall structures are met and that the necessary mitigation is secured in the final dDCO [\[AS-042\]](#) to prevent risks to national security and physical safety as per NPS EN-1 paragraph 5.5.60.

Conclusions

- 3.11.47. The ExA is satisfied that the applicant has, in Chapter 16 of the ES, undertaken an assessment [\[REP5-031\]](#) of civil and military aviation and other defence assets as required by NPS EN-1 section 5.5.
- 3.11.48. As identified above, with the necessary mitigation secured in the dDCO [\[AS-042\]](#), the ExA also considers that the SoS can be satisfied that the proposed development, alone and cumulatively, does not present a risk to national security and physical safety as required by NPS EN-1 paragraph 5.5.60. The ExA considers that the SoS can be satisfied that the relevant parties have worked together to resolve conflicts identified during the examination.
- 3.11.49. The ExA also considers the policy requirements of the Marine Policy Statement paragraph 3.2.9 and the East Inshore and East Offshore Marine Plans have been met as impacts on defence interests have been assessed and matters agreed with the MoD. In relation to lighting and NPS EN-1 paragraph 5.5.54, the provisions of the Air Navigation Order 2016 are secured in R27 of the dDCO [\[AS-042\]](#).
- 3.11.50. The local authorities did not identify any local policies considered to be important and relevant to the consideration of the proposed development in relation to civil and military aviation and communication and the ExA agrees with this.
- 3.11.51. Chapter 16 of the ES [\[AS1-042\]](#) identified a significant effect for NATS and MoD PSR during the operation and maintenance phases of the proposed development for the project alone and cumulatively. However, with additional mitigation as secured in the dDCO [\[AS-042\]](#), the residual effect is reduced to not significant which is defined in the ES as a little effect or a level of effect acceptable to the aviation receptor. As such, no residual significant effects are identified by the ES. This conclusion, and all others in relation to effects remained the same following changes to the application as confirmed in the revised ES [\[REP5-031\]](#). The ExA agrees with the applicant's conclusions on all civil and military aviation and communication effects of the proposed development alone and cumulatively.
- 3.11.52. Given the conclusion on residual effects in the ES and compliance with relevant policies and statutory requirements, the ExA considers that civil and military aviation and communication matters, within the overall [planning balance](#), weigh against the making of the Order with a little negative weight.

3.12. SEASCAPE AND VISUAL EFFECTS

Introduction

- 3.12.1. This section considers the effects of the elements of the proposed development located seaward of Mean High Water Springs (MHWS) in relation to onshore and offshore seascape, landscape and visual receptors. The landscape effects of onshore elements of the proposed development are considered separately in section 3.14 of this Recommendation.
- 3.12.2. In relation to seascape and visual effects, the Examining Authority (ExA) has had regard to:
- the requirements of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) as set out in sections 4.7 and 5.10 and the National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) as set out in section 2.8.
 - National Parks and Access to the Countryside Act 1949
 - Countryside and Rights of Way Act 2000
 - Levelling Up and Regeneration Act 2023
 - Local Impact Reports (LIRs) submitted by Lincolnshire County Council (LCC) and a joint LIR from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC)
 - relevant local development plan policies set out in the East Lindsey Local Plan Core Strategy (2018), South East Lincolnshire Local Plan (2019), East Riding Local Plan (2016) Strategy Document and the North Norfolk Core Strategy (2008)
 - any matters prescribed in relation to the proposed development
 - any other important and relevant matters.

The applicant's case

- 3.12.3. Volume 1 of Environmental Statement (ES) Chapter 17 Seascape Landscape and Visual Impact Assessment (SLVIA) [\[APP-072\]](#) provides an assessment of effects of the elements of the proposed development located seaward of MHWS on offshore and onshore receptors. More specifically, it provides:
- an overview of the existing and future baseline environment, including landscape and seascape character areas, landscape designations and visual receptors
 - a summary of the assumptions and limitations of the assessment
 - an assessment of potential environmental effects of the proposed development in isolation and cumulatively on seascape and landscape during the construction, operation and maintenance and decommissioning phase
 - a summary of embedded mitigation and confirmation that no additional mitigation is identified
- 3.12.4. Volume 2 figures part 1, 2 and 3 of ES Chapter 17 [\[APP-105\]](#), [APP-106](#) and [APP-107](#) provide plans to identify features such as the study area, viewpoints, seascape character areas, landscape designations and wireline drawings and photomontages in support of the assessment. The methodology for the SLVIA is detailed in Volume 3, appendix 17.1 of the ES [\[APP-174\]](#). An overview of the methodology is also set out in section 17.6 of the ES [\[AS1-044\]](#) which states that the SLVIA has been undertaken in accordance with Guidelines for Landscape and Visual Impact Assessment, 3rd Edition (GLVIA3) as published by the Landscape Institute and the Institute of Environmental Management and Assessment (IEMA).

- 3.12.5. In response to section 51 advice issued by the ExA, the applicant submitted a revised Volume 1 and Volume 2 (part 1) of Chapter 17 of the ES [[AS1-044](#) and [AS1-056](#)] to address labelling errors, minor discrepancies and omissions in July 2024, prior to the Preliminary Meeting (PM). The revised documents supersede those originally submitted with the application.

Scope and methodology

- 3.12.6. Section 17.5 of the ES [[AS1-044](#)] lists impacts that have been scoped in to the assessment during each phase of the proposed development as well as those scoped out. Potential effects on seascape character, landscape character, landscape designations and visual receptors are assessed in relation to:
- construction – construction activities within the array and associated with the offshore reactive compensation platforms (ORCPs)
 - operation and maintenance – operation of wind turbine generators (WTGs) and ORCPs
 - decommissioning – decommissioning activities within the array area and ORCPs
- 3.12.7. The study area for the SLVIA comprises the Order limits along with the Zone of Theoretical Visibility (ZTV) for the proposed array area and separately the ZTV for the proposed ORCP areas. Two ORCP areas are identified which reflects the split in the offshore Export Cable Corridor (ECC) to provide optionality.
- 3.12.8. Accordingly, a 60 kilometre (km) radius is defined as the study area for the array whilst a 30km radius around the ORCP area is also applied as identified in Figure 17.1 of the ES [[AS1-056](#)]. The ZTV for proposed artificial nesting structures (ANS) as identified in figure 17.20 [[APP-106](#)] are within the 60km radius study area of the proposed array.
- 3.12.9. Section 16 of Appendix 17.1 SLVIA methodology [[APP-174](#)] provides justification for the definition of the SLVIA study area stating that it extends far enough to include all areas within which significant effects could occur. The applicant also explains that in defining the study area, regard has also been had to factors including potential cumulative effects with other offshore windfarms, weather conditions, the curvature of the earth and relevant guidance.
- 3.12.10. The existing baseline environment is described in section 17.4.4 of the ES [[AS1-044](#)]. In relation to seascape character, figure 17.9 of the ES [[AS1-056](#)] illustrates areas identified in the Seascape Character Area Assessment for the East Inshore and East Offshore Marine Plan Areas published by the Marine Management Organisation (MMO) in 2012.
- 3.12.11. Table 17.5 [[AS1-044](#)] and figure 17.11 [[AS1-056](#)] identify landscape designations of relevance to the SLVIA, including:
- Norfolk Coast Area of Outstanding Natural Beauty (AONB)
 - North Norfolk Coast Heritage Coast
 - Lincolnshire Wolds AONB
 - Spurn Head Heritage Coast and Local Landscape Area
 - Sheringham Hall Registered Park and Garden
- 3.12.12. Table 17.5 [[AS1-044](#)] also highlights the special qualities of the Norfolk Coast AONB and Lincolnshire Wolds AONB as identified in the respective management plans for the two National Landscapes.

- 3.12.13. Section 17.4.4.2 of the ES [\[AS1-044\]](#) identifies the principal visual receptors primarily along the closest sections of the coastline, including settlements, recreational routes and visitors to coastal tourist facilities. However, offshore visual receptors such as ferry passengers are also acknowledged.
- 3.12.14. Table 17.6 [\[AS1-044\]](#) and several figures, including figure 17.1, identify viewpoints considered in the SLVIA which are informed by GLVIA3, analysis of the ZTV and visual receptors. Viewpoints are primarily located on the coastline along with viewpoint 6 further in land within the Lincolnshire Wolds AONB and viewpoints 11 and 12 that are both located offshore and are included in response to the Planning Inspectorate's Scoping Opinion. Part 3 of Volume 2 of Chapter 17 of the ES [\[APP-107\]](#) provides wireline drawings, photomontages and ZTV drawings for the array area and ORCPs for viewpoints considered. The ZTV for ANS potential locations within the ANS areas are identified in figure 17.20 [\[APP-106\]](#). Figures 17.18 and 17.19 [\[APP-106\]](#) identify baseline lighting conditions in relation to night time light pollution in the context of the ORCPs.
- 3.12.15. The ZTV for WTGs is based upon a maximum design scenario (MDS) of 403m blade tip height above Lowest Astronomical Tide (LAT). The MDS includes 50 WTGs at this height as the maximum number that could be constructed at the maximum height. The array area is located approximately 55km from the closest section of coastline. The ZTV for the ORCP assessment is based upon a MDS of a maximum height of 90 metres (m) above LAT, plus mast and antennae located in the closest part of the offshore ECC to the coastline – approximately 12km.
- 3.12.16. Full details of the MDS applied in the SLVIA for the construction, operation and maintenance and decommissioning phases for the project are specified in table 17.8 [\[AS1-044\]](#). Figure 17.1 [\[AS1-056\]](#) also provides a plan of the MDS considered including the location of the array area, two ORCP areas and two ANS areas.
- 3.12.17. The applicant's approach to the cumulative impact assessment of seascape and visual effects is set out in section 17.8 of the ES [\[AS1-044\]](#). It states that a tiered approach to assessment has been adopted in line with the Planning Inspectorate's advice on cumulative effects assessments which reflects the current status of other projects identified in table 17.13.

The applicant's assessment of effects and proposed mitigation

- 3.12.18. Table 17.9 [\[AS1-044\]](#) of the ES identifies embedded mitigation for seascape, landscape and visual receptors. For all phases of the proposed development, the ORCPs will be positioned a minimum of 12km from the coastline. Additionally, during the operation and maintenance phase, lighting and marking would be in agreement with Trinity House, the Maritime and Coastguard Agency (MCA), and Civil Aviation Authority (CAA), and in compliance with International Association of Marine Aids to Navigation and Lighthouse Authorities guideline G1162. No additional mitigation measures are identified.
- 3.12.19. Effects of the project alone are assessed in section 17.7 of the ES [\[AS1-044\]](#). Table 17.11 provides an assessment of viewpoints and receptors in relation to their value, susceptibility and sensitivity whilst table 17.12 assesses the magnitude of change and significance of effects at each viewpoint. Table 17.15 summarises effects and residual impacts.
- 3.12.20. Significant effects adverse (major/moderate) are identified in table 17.15 [\[AS1-044\]](#) in relation to visual receptors on the closest parts of the undeveloped sections of

Lincolnshire coastline as reflected by viewpoint 5 at Chapel Six Marshes. This effect relates to the ORCPs rather than the array area with the former being located approximately 12.6km away from viewpoint 5 in contrast with the array area which is 56.1km away at this location. Table 17.15 [AS1-044] records this significant effect during the construction, operation and maintenance and decommissioning phases of the proposed development.

- 3.12.21. No other significant effects are identified for the proposed development alone. Moderate adverse effects are identified during all phases of the proposed development from the ORCPs on the Donna Nook to Gibraltar Point Naturalistic Coast Landscape Character Area (LCA) but on balance they are not considered to be significant by the applicant. The LCA forms a narrow strip along the Lincolnshire coastline from which the ORCPs would be relatively prominent according to the applicant. However, the applicant considers that this LCA is already influenced by development both onshore and offshore which would limit the relative change to the LCA overall.
- 3.12.22. Paragraph 221 of Chapter 17 of the ES [AS1-044] concludes that the proposed development would not have significant effects on either the Lincolnshire Wolds AONB or Norfolk Coast AONB. As such, the applicant considers that the proposed development would not adversely affect the defined special qualities or statutory purposes of the two national landscapes.

Cumulative impact assessment

- 3.12.23. The applicant's cumulative impact assessment is set out in section 17.8 of the ES [AS1-044]. Table 17.13 identifies other projects considered in the cumulative assessment include the consented Hornsea Four and Sheringham Shoal and Dudgeon Extension offshore wind farms as well as the proposed Eastern Green Link 3 and Eastern Green Link 4 transmission project. Existing offshore windfarms are considered as part of the baseline for the assessment. No significant cumulative effects are identified.

Issues considered during the examination

- 3.12.24. Based on the comments raised by interested parties (IP) and the ExA's review of the application documents, the key issues considered during the examination were:
- implications of the potential Lincolnshire Heritage Coast and East Coast Flyway World Heritage Site
 - the effects of ORCPs, related management measures and design
 - the duty to further the purposes of National Landscapes
- 3.12.25. Furthermore, changes to the proposed development were made by the applicant during the examination as considered in section 1.6 of this Recommendation. Changes of relevance to seascape and visual matters include revisions to the offshore ECC [REP1-039] and removal of the northern option ECC and ORCP area from the application, the introduction of the Offshore Restricted Build Area (ORBA) [REP2-065] and changes to the MDS of the ORCPs [REP4-124] to reduce the maximum height of the ORCPs to 59.2m above LAT with any mast or antenna located on the ORCPs to be a maximum height of 79.2m above LAT.
- 3.12.26. In each of the change requests, the applicant concludes that they do not result in any new or different likely significant effects and the overall conclusions identified in the ES [AS1-044] remain the same. At deadline (D) 5, the applicant submitted an updated Volume 1 [REP5-033] and Volume 2 [REP5-057, REP5-058 and REP5-

[059](#)] of the SLVIA to reflect the changes to the proposed development and other matters considered during the examination as identified below. The conclusions regarding effects are the same as those identified in the SLVIA considered at the start of the examination [\[AS1-044\]](#).

Implications of the potential Lincolnshire Heritage Coast and East Coast Flyway World Heritage Site

- 3.12.27. The potential designation of a Lincolnshire Heritage Coast is identified in table 17.2 [\[AS1-044\]](#) amongst consultation feedback from Natural England (NE) gathered prior to the submission of the Development Consent Order (DCO) application. Correspondence from NE quoted in table 17.2 sets out that NE and the local planning authority have ambitions for a Lincolnshire Heritage Coast but plans are at an early stage and that the geographical extent and special qualities that a designation may seek to protect are currently unknown. Nevertheless, NE sought appropriate consideration to a prospective Heritage Coast designation in the assessment of landscape and seascape effects. However, NE acknowledged that “Whilst a fully defined Heritage Coast is supported by planning policy in paragraph 178 of the National Planning Policy Framework, a speculative Heritage Coast confers no additional planning protection”.
- 3.12.28. The applicant’s subsequent response outlined in table 17.2 of the ES [\[AS1-044\]](#) acknowledged the ambition but stated that as further details were not available, no assessment could be made of the possible Heritage Coast and that no weight should be given to it in the assessment.
- 3.12.29. Whilst NE’s RR [\[RR-045\]](#) confirmed that it had no outstanding concerns regarding any existing Heritage Coast, the potential new designation was not specifically identified in relevant representations submitted by NE, LCC [\[RR-004\]](#), BBC [\[RR-001\]](#), ELDC [\[RR-003\]](#) or SHDC [\[RR-005\]](#).
- 3.12.30. The ExA sought an update on the status of the potential designation and any implications for the consideration of the proposed development in Q1 SV 1.2 of its first written questions (ExQ1) [\[PD-013\]](#). NE confirmed at D3 [\[REP3-066\]](#) that the proposal was on hold and there was no timeframe for when progress would be made. NE advised that it would provide an update during the examination if any progress was made but no further information was given. The applicant’s response to ExQ1 [\[REP2-051\]](#) maintained its position set out in table 17.2 of the ES.
- 3.12.31. LCC’s ExQ1 response [\[REP2-069\]](#) also stated that timescales for the proposed Heritage Coast were still unknown. However, LCC also identified the East Coast Flyway World Heritage Site bid that was at the preliminary assessment appraisal stage as a possible further consideration that may not have been known at the time of the application being submitted. In response to the ExA’s further written question, Q2 SV 1.2, LCC [\[REP4-133\]](#) clarified that the bid was to be determined in 2030 and that it related to migratory routes for birds with coastal areas of eastern England providing nesting or roosting points.
- 3.12.32. The applicant’s response to ExQ2 [\[REP4-107\]](#) stated that the bid is not relevant to the SLVIA due to it being at an early stage and that it would have limited influence on the assessment as it specifically relates to habitats. LCC did not contest the applicant’s position on this during discussion on the matter at issue specific hearing (ISH) 5 and confirmed that it did not seek to comment on seascape matters [\[REP4a-124\]](#).

The ExA's reasoning on the implications of the potential Lincolnshire Heritage Coast and East Coast Flyway World Heritage Site

- 3.12.33. The ExA notes that by the close of the examination, no interested parties (IPs) sought further consideration of the potential Lincolnshire Heritage Coast or East Coast Flyway World Heritage Site bid in relation to the SLVIA.
- 3.12.34. Paragraph 5.6.13 of NPS EN-1 requires applicants to identify any effects on the special character on heritage coasts. National Planning Policy Framework paragraph 191 also provides policy in relation to “areas defined as Heritage Coast...”. The applicant’s SLVIA [\[AS1-044\]](#) has assessed effects on designated heritage coasts in the study area and no significant effects are identified. The ExA is satisfied that the relevant policy tests have been met and that no further assessment in the SLVIA is required for either the potential Lincolnshire Heritage Coast or East Coast Flyway World Heritage Site bid due to their status being at the early stage of the designation process.

The effects of ORCPs, related management measures and design

- 3.12.35. In response to consultation feedback from NE prior to the submission of the application as summarised in table 17.2 of the ES [\[AS1-044\]](#), the minimum distance of the ORCPs from the coastline was increased from 6km to 12km as reflected in the SLVIA MDS assessed in the ES. NE subsequently [\[RR-045\]](#) confirmed that it had no remaining concerns in light of the revised MDS. No other IPs raised matters regarding the ORCPs in relevant representation or written representations.
- 3.12.36. Nevertheless, the ExA identified several matters related to the consideration of ORCPs in the SLVIA upon which it sought clarification from the applicant in ExQ1 [\[PD-013\]](#). Of particular note, Q1 SV 1.5 sought clarification from the applicant in relation to the maximum height of the ORCPs as specified in the MDS as being up to 90m above LAT “...but excluding masts and antennae”. It was unclear to the ExA why the heights of masts and antennae were not specified in the MDS, how tall they might be, how related effects had been assessed given the absence of details or how their height would be controlled. The ExA’s Q1 SV 1.6 also asked the applicant if any consideration had been given to reducing the scale of the ORCP MDS as well as seeking clarification on the scope to increase the minimum distance of the ORCPs from the coast from 12km.
- 3.12.37. In relation to the scale of the ORCPs and exclusion of details of masts and antennae, the applicant’s response [\[REP2-051\]](#) committed to undertake a technical engineering review to inform the ORCP MDS and confirm the maximum height of masts and antennae at D4.
- 3.12.38. At D4, the applicant submitted a change request [\[REP4-124\]](#) as identified above to reduce the maximum height of the ORCPs to 59.2m above LAT with any mast or antenna located on the ORCPs to be a maximum height of 79.2m above LAT. The ExA accepted this change request on 11 February 2025 [\[PD-022\]](#). An updated dDCO [\[REP4-008\]](#) submitted by the applicant at D4 incorporates the updated MDS for the ORCPs in requirement 2 (5) and schedule 11 (Deemed licence under the 2009 Act – offshore transmission assets), condition 1.
- 3.12.39. In relation to the minimum distance of 12km applied in the MDS for the ORCPs, the applicant’s response to Q1 SV 1.6 [\[REP2-051\]](#) explained that it is unable to move the location further offshore east beyond the Inner Dowsing Race Bank North Ridge (IDRBNR) Special Area of Conservation (SAC) without compromising the ability of the project to deliver power to the onshore substation to achieve 1500 Megawatt

(MW) export power. Chapter 4 of the ES, Site Selection and Consideration of Alternatives [\[REP5-013\]](#) provides further justification for the location of the ORCP area.

- 3.12.40. The ExA's Q1 SV 1.7 sought clarification on the ORCP MDS in relation to lighting. Table 17.8 in the ES [\[AS1-044\]](#) states that "the ORCPs would not have any personnel working on them at night and therefore no operational lighting is expected to be required". However, the ExA noted that the subsequent assessment in section 17.7 of the ES clarifies that such lighting may be required during emergency maintenance. The ExA sought further information on the effects of operational lighting, certainty that the dDCO provided control that operational lighting could only be used during emergency maintenance and comments on the policy requirements in NPS EN-1 (paragraph 5.10.21) to assess light pollution effects, including on dark skies and local amenity.
- 3.12.41. The applicant's response to Q1 SV 1.7 [\[REP2-051\]](#) confirmed the possible requirement for operational lighting during emergency maintenance but that this would be limited to low levels of lighting intensity when in use and that it would not be visible from the coast. Marine navigational lighting would also be fitted to the ORCPs and this would be visible from the coastline in the context of lighting on other currently operational windfarms in the vicinity. The applicant also signposted to the assessment of effects from navigation and aviation lighting and stated that it considered that the policy requirements of NPS EN-1, paragraph 5.10.21, had been met. The ORCPs would not be located in a dark skies area and would be a minimum of 12km offshore. As such, the applicant considered that there would not be a significant adverse effect on local amenity.
- 3.12.42. At ISH3, the ExA sought clarification from the applicant as to how the apparent commitment for only low intensity lighting to be installed on the ORCPs for maintenance purposes is secured. In response to a subsequent action point, at D4 the applicant submitted an Outline ORCP Lighting Management Plan [\[REP4-081\]](#) which specified lighting requirements for the ORCPs, including lighting intensity. Condition 13 of schedule 11 (Deemed licence under the 2009 Act – offshore transmission assets) of the dDCO [\[REP4-006\]](#) was also updated to require the provision of an offshore reactive compensation platform lighting management plan, in accordance with the outline. The updated SLVIA submitted at D5 [\[REP5-033\]](#) also reflects the provisions of the Outline ORCP Lighting Management Plan.
- 3.12.43. With regards to design, at ExQ1 (Q1 SV 1.9), the ExA sought clarification from the applicant on the reasons for the absence of consideration of offshore elements of the proposed development in the Design Approach Document (DAD) [\[APP-292\]](#) and Design Principles Statement (DPS) [\[APP-293\]](#). NE and the local authorities were also invited by the ExA to comment on the merits of including offshore elements of the proposed development, particularly the ORCPs in the DAD and DPS to facilitate good design. LCC stated that its focus would be on onshore design matters [\[REP2-069\]](#). NE [\[REP2-074\]](#) confirmed that due to the low risk of impacts for designated landscapes, the design of ORCPs was not of particular concern to NE other than the extent to which the design might have a role in mitigating ecological effects.
- 3.12.44. At D4, the applicant submitted a revised DAD [\[REP4-075\]](#) to include consideration of offshore elements of the proposed development, including cross reference to a new Outline ORCP DPS [\[REP4-121\]](#). The Outline ORCP DPS establishes design principles that would be adopted in the development of the detailed design of the ORCPs prior to construction. Following discussion at ISH5 [\[REP4a-120\]](#), the ORCP

DPS [REP4a-112] and schedule 11 (Deemed licence under the 2009 Act – offshore transmission assets), condition 13 (a) (ii) of the dDCO [REP4a-006] were updated by the applicant to require that details of the ORCPs must accord with the principles set out in the ORCP DPS and approved by the MMO.

The ExA's reasoning on the effects of ORCPs, related management measures and design

- 3.12.45. The ExA acknowledges that no IPs object to the proposed development on the basis of the seascape and visual effects of the ORCPs. However, the ExA also notes the applicant's conclusions in the SLVIA [REP5-033] which identified significant adverse effects in relation to visual receptors on the closest parts of the undeveloped sections of Lincolnshire coastline. The ExA concurs with this conclusion and all others relating to effects as summarised by the applicant in table 17.15. The ExA's conclusion is informed by the SLVIA and the ExA's observations at seascape viewpoints 5 and 6 during its unaccompanied site inspection (USI) held on 23 May 2024 [EV1-002].
- 3.12.46. Whilst the introduction of the ORCP Lighting Management Plan [REP4-081], ORCP DPS [REP4a-112], revised DAD [REP4-075] and revised MDS for the ORCP have not led to reduced adverse effects, the ExA welcomes the additional clarity that they bring along with a stronger commitment to good design. This approach is also considered by the ExA to align with NPS EN-1 section 4.7, including the need for the Secretary of State (SoS) to take into account the ultimate purpose of the infrastructure and to bear in mind the operational, safety and security requirements. The policy requirement in NPS EN-1 paragraph 5.10.21 regarding visibility of the project, including light pollution has been met.

The duty to further the purposes of National Landscapes

- 3.12.47. No IPs identified concerns regarding seascape effects on National Landscapes or the duty to serve the purposes of National Landscape in relevant representations, written representations or LIRs.
- 3.12.48. The relevant representation from the Borough Council of King's Lynn and West Norfolk [RR-003] also stated that *"Given the distance from the borough boundary, it is not considered that the proposals would impact upon the visual character of Kings Lynn and West Norfolk."*
- 3.12.49. However, the ExA asked the applicant how it had considered the duty to further the purposes of National Landscapes as set out in NPS EN-1 paragraphs 5.10.7 and 5.10.8 in ExQ 1 SV 1.1 [PD-013]. The question also sought comments from NE and the local authorities on the matter. ExQ2 SV 1.1 [PD-020] also sought feedback from the same parties regarding possible implications of new guidance regarding the duty as published by the Department for Environment Food and Rural Affairs (DEFRA) on 16 December 2024.
- 3.12.50. The applicant responded to Q1 SV 1.1 [REP2-051] stating that it had taken reasonable steps to avoid compromising the purpose of the National Landscape designations through siting and design resulting in "no greater than minor, not significant and indirect, and does not result in 'harm' that requires to be offset." The applicant also considered that this was consistent with the approach taken by the SoS in determining the Sheringham and Dudgeon Extension Project Development Consent Order application. In that case, the duty was held to be met because the *"the Applicant has taken reasonable precautions to avoid compromising the purpose of the designation"*.

- 3.12.51. The matter was discussed at ISH5. As an action point at ISH5, the applicant also set out a more detailed explanation of its position in appendix 1 to its written summary of its oral case put at ISH5 [REP4a-116] in the context of relevant legislation, including the Countryside and Rights of Way Act 2000 and Levelling Up and Regeneration Act 2023. The applicant highlights that significant effects have not been identified on national landscapes. As a result, it considers that the application of the duty is inherently unlikely to affect decision making in this case. In reaching this conclusion, the applicant also states that it is not a duty to ensure that the decision made furthers the statutory purpose, but instead to seek to further it. This allows room for judgment on a case-by-case basis. For instance, as to whether to make a DCO which does not further the purpose.
- 3.12.52. NE's position [REP2-074] on the matter also considered that as the proposed development would not have significant impacts on the setting of a National Landscape, it did not consider the proposal as being *"outside the boundaries of these areas which may have impacts within them."* as per paragraph 5.10.8 of NPS EN-1.
- 3.12.53. LCC response to ExQ1 [REP2-069] acknowledged that the undergrounding of cabling for the proposed development had "taken account of the sensitivity of the views from the Lincolnshire Wolds National Landscape, helping to safeguard the area's nationally recognised and protected natural beauty – a component of which includes the extensive views both to and from the Wolds and both its immediate and wider setting." However, LCC considered that the duty was applicable given the sensitivity of the National Landscape to neighbouring developments. Accordingly, it sought assurances from the applicant that the setting and visual envelope of the Lincolnshire Wolds are not just protected but enhanced by the proposed development.
- 3.12.54. In response to ExQ2, LCC [REP4-133] maintained its previous position and noted that the LVIA had scoped the Lincolnshire Wolds AONB out of the assessment. At ISH5, the ExA queried this position with LCC and sought confirmation from LCC that it acknowledged that that applicant had indeed assessed effects on the Lincolnshire Wolds, albeit in the SLVIA due to the potential effects of WTGs and ORCPs. LCC duly responded in writing as an action point [REP4a-135] stating that *"The Council has nothing further to add to this point and is satisfied that this duty to further the purposes of the National Landscapes is not compromised by the details in applicant's Seascape Landscape and Visual Assessment."*
- 3.12.55. The Statement of Common Ground (SoCG) [REP5-135] between the applicant and LCC and LCC's Closing Statement [REP6-158] also do not identify the issue with its focus being on effects considered in Chapter 28 of the ES, Landscape and Visual Impact Assessment [APP-083]. The joint SoCG between the applicant, BBC, ELDC and SHDC [REP5-136] also reflects this position.

The ExA's reasoning on the duty to further the purposes of National Landscapes

- 3.12.56. The ExA notes that the SLVIA does not identify significant effects for National Landscapes assessed, namely the Lincolnshire Wolds AONB and the Norfolk Coast AONB. The ExA agrees with the applicant's findings in the SLVIA in this respect and notes the position of the local authorities.
- 3.12.57. Turning to the policy test set out in NPS EN-1 paragraph 5.10.8 and 5.10.34 which relates to projects outside the boundaries of nationally designated landscapes which

may have impacts within them. NE's position [\[REP4-143\]](#) is that the test is not applicable because the proposed development would not have significant effects on a national landscape. The ExA concurs with the view which is consistent with NPS EN-1 paragraph 4.3.8 which states that in the NPS, *"the terms 'effects', 'impacts' or 'benefits' should be understood to mean likely significant effects, likely significant impacts, or likely significant benefits."*

- 3.12.58. Nevertheless, even if a conclusion of an impact on national landscapes had been reached, the ExA considers that the subsequent policy tests in paragraphs 5.10.8 and 5.10.34 have been met. As discussed above, the ORCPs are proposed to be located as far away as possible from the coastline to minimise visual effects. In addition, the ORCP Lighting Management Plan [\[REP4-081\]](#), ORCP DPS [\[REP4a-112\]](#), revised DAD [\[REP4-075\]](#) and revised MDS for the ORCP also all provide a framework for sensitive design in the context of operational constraints. The ExA considers that these measures are sufficient, appropriate and proportionate to the type and scale of the development.
- 3.12.59. Accordingly, the ExA concludes that the proposed development meets the policy test in NPS EN-1. The ExA also considers that the SoS can be satisfied that all possible steps have been taken to further the purposes of national landscape to comply with the duty under s245 of the Levelling Up and Regeneration Act 2023.

Conclusions

- 3.12.60. The ExA is satisfied that the applicant has undertaken an appropriate SLVIA [\[REP5-033\]](#) as required by NPS EN-1 section 5.10 and NPS EN-3 section 2.8.
- 3.12.61. The SLVIA references relevant landscape character assessments and the Seascape Character Area Assessment for the East Inshore and East Offshore Marine Plan. Seascape-related visual effects were also considered by the applicant to inform siting and design principles and the ExA concurs with this.
- 3.12.62. As identified above, the ExA also considers that the policy tests in NPS EN-1 in relation to projects outside of nationally designated landscapes have been met as has policy regarding heritage coasts in NPS EN-1, EN-3 and NPPF.
- 3.12.63. In addition, the ExA does not identify conflict with the relevant local policies as identified in table 17.1 of the SLVIA [\[REP5-033\]](#).
- 3.12.64. The SLVIA identified a significant effect in relation to visual receptors on the closest parts of the undeveloped sections of Lincolnshire coastline across all phases of the proposed development. This conclusion, and all others in relation to effects remained the same following changes to the application as confirmed in the revised SLVIA [\[REP5-033\]](#). The ExA agrees with the applicant's conclusions on all effects.
- 3.12.65. Paragraph 2.8.351 of NPS EN-3 acknowledges that when an offshore windfarm is located within sight of the coast, there may be adverse effects. It goes on to state that the SoS should not refuse to grant consent solely on the basis of an adverse effect on seascape or visual amenity unless one of two tests can be met. Namely, that it considers that an alternative layout identified within the site could reasonably be proposed that would minimise harm or that the SoS takes account of receptors and impacts on national landscapes and decides that the harm outweighs the benefits. For the reasons outlined in this Recommendation, the ExA concludes that neither test is met and therefore the application should not be refused solely on the

basis of adverse seascape effects. The ExA does not consider that the harm outweighs the benefits on this issue.

- 3.12.66. However, given the significant (moderate/major) effects identified during the construction, operation and maintenance and decommissioning phases of the proposed development, the ExA considers that seascape and visual effects weigh moderately against making of the Order for the purposes of the overall [planning balance](#).

3.13. LAND USE, GEOLOGY AND GROUND CONDITIONS

Introduction

- 3.13.1. This section considers the effects of the proposed development on land use, geology and ground conditions as well as socio-economic effects related to agriculture. This section also includes the consideration of alternatives insofar as they relate to the use of Best and Most Versatile (BMV) agricultural land.
- 3.13.2. In the consideration of these matters, the Examining Authority (ExA) has had regard to:
- the requirements of Overarching National Policy Statement for Energy EN-1 (NPS EN-1) including section 5.11 and 5.13 and National Policy Statement for Electricity Networks Infrastructure (NPS EN-5), including section 2.9
 - Marine and Coastal Access Act 2009
 - Commons Act 2006
 - Wildlife and Countryside Act 1981
 - Countryside and Rights of Way Act 2000
 - Environment Act 1995
 - Part 2A of the Environmental Protection Act 1990
 - the National Planning Policy Framework (NPPF)
 - Local Impact Reports (LIRs) submitted by Lincolnshire County Council (LCC) and a joint LIR from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC)
 - relevant local development plan policies set out in the East Lindsey Local Plan Core Strategy (2018), South East Lincolnshire Local Plan (2019) and the Lincolnshire Minerals and Waste Local Plan (2016),
 - any matters prescribed in relation to the proposed development
 - any other important and relevant matters

The applicant's case

- 3.13.3. Volume 1 of Environmental Statement (ES) Chapter 25 Land Use [\[APP-080\]](#) provides an assessment of effects on land use matters, including agricultural productivity and the loss of agricultural land from mean low water springs (MLWS) at landfall along the onshore export cable corridor (ECC) and the onshore substation (OnSS). Volume 2 Figures of ES Chapter 25 [\[APP-116\]](#) provides plans to identify provisional Agricultural Land Classification (ALC), recreational land and utilities.
- 3.13.4. Volume 1 of ES Chapter 23 Geology and Ground Conditions [\[APP-078\]](#) assesses effects on related matters including contamination of soils and groundwater, agricultural drainage and soil quality. This is supported by volume 2 Figures of Chapter 23 of the ES [\[APP-114\]](#) which identifies the underlying geology and potential sources of contamination. Volume 3 of Chapter 23 Preliminary Land Quality Risk Assessment (PLQRA) [\[APP-209\]](#) identifies potential contaminate pathways and risks to receptors along with related actions.
- 3.13.5. Volume 1 of Chapter 29 of the ES Socio-Economic Characteristics [\[APP-084\]](#) considers a range of related effects but this section only considers those relating to agriculture. Volume 2 of Chapter 29 of the ES does not provide any further relevant information on agriculture.
- 3.13.6. Volume 1 of Chapter 4 of the ES [\[APP-059\]](#) Site Selection and Consideration of Alternatives sets out the applicant's approach and assessment of alternatives

considered in the context of constraints such as BMV agricultural land. This includes the identification of the preferred onshore ECC route and OnSS site. Volume 2 Figures of Chapter 4 of the ES provides plans which illustrate options considered.

3.13.7. In response to section 51 advice issued by the ExA, the applicant submitted revised versions of the following documents to address labelling errors, minor discrepancies and omissions in July 2024, prior to the Preliminary Meeting (PM). These documents supersede the relevant documents identified above and are the basis for this Recommendation unless stated otherwise.

- Volume 1 ES Chapter 25 Land Use [[AS1-050](#)]
- Volume 2 ES Chapter 25 Land Use Figures [[AS1-060](#)]
- Volume 2 ES Chapter 23 Geology and Ground Conditions [[AS1-058](#)]
- Volume 3 ES Chapter 23 Geology and Ground Conditions PLQRA [[AS1-059](#)]

3.13.8. On 19 September 2024, the applicant also submitted an Erratum to Site Selection and Consideration of Alternatives document [[PD1-074](#)] to correct errors in the onshore ECC quantitative analysis data presented in ES Chapter 4 annex A, table 4B.1 [[APP-059](#)].

Scope and methodology

3.13.9. Section 25.4.1 of the ES [[AS1-050](#)] lists land use impacts that have been scoped in to the assessment during each phase of the proposed development as well as those scoped out. Effects scoped into the assessment are summarised below:

- construction – agricultural productivity, agricultural land holdings, outdoor recreational sites, ecological designations, long distance routes and rights of way, agri-environmental schemes, utilities, access/common land, green space and coastal use
- operation and maintenance – permanent loss of agricultural land and soil heating along the onshore ECC
- decommissioning – onshore ECC impacts and permanent infrastructure impacts based upon a worst case scenario of the removal of cabling via pulling them from ducts and removal of permanent infrastructure

3.13.10. The cumulative loss of agricultural land within the OnSS area as well as the cumulative loss of agricultural land within Lincolnshire are also scoped in for the purposes of the cumulative impacts assessment of land use.

3.13.11. Section 23.5.1 of the ES [[APP-078](#)] identifies impacts scoped into the assessment of geology and ground conditions as follows:

- construction – risks to construction works and offsite human receptors relating to contamination, impacts on soil/land quality, sterilisation of minerals deposits, risks to designated geological sites and agricultural drainage
- operation and maintenance – ingress and accumulation of hazardous ground gases, structures and services in direct contact with contaminated soils and groundwater, operational impacts on geology/ground conditions and associated longer term risks to human and environmental receptors and agricultural drainage
- decommissioning - risks to construction works and offsite human receptors relating to contamination

- 3.13.12. For the purposes of the cumulative impacts assessment of geology and ground conditions, risks to construction works and offsite human receptors relating to contamination, construction phase impacts upon soil/land quality, sterilisation of mineral deposits, risks to designated geological sites and agricultural sites are assessed.
- 3.13.13. Section 29.5.1 of the ES [\[APP-084\]](#) identifies impacts scoped into the assessment for socio-economics effects. This includes impacts on the United Kingdom's (UK) vegetable market during the construction phase for the proposed development alone and cumulatively.
- 3.13.14. The study area for land use matters considered in Chapter 25 of the ES [\[AS1-050\]](#) is identified in figure 25.1 [\[AS1-060\]](#) and reflects the onshore Order limits. As identified in figure 23.1 [\[AS1-058\]](#), the study area for geology and ground conditions also reflects the onshore Order limits with an additional buffer of 250 metres (m) extending to a 1 kilometre (km) buffer around the OnSS and connection area. Chapter 29 of the ES [\[APP-084\]](#) assesses effects on the vegetable market of the UK as a whole.
- 3.13.15. The existing baseline environment for land use and geology and ground conditions is described in section 25.3.3 of the ES [\[AS1-050\]](#) and 23.4.3 of the ES [\[APP-078\]](#) respectively for 14 individual segments of the onshore ECC from landfall to the OnSS and connection area. Paragraphs 68 to 71 of Chapter 29 of the ES [\[APP-084\]](#) describe the existing environment for socio-economics insofar as it relates to agriculture and food security.
- 3.13.16. Geological designations in the study area as identified in figure 23.2 [\[AS1-058\]](#) include the Lincolnshire Coast Submerged Forest which is a local geological site and the Chapel Point to Wolla Bank Site of Special Scientific Interest (SSSI) both of which are in the vicinity of the proposed landfall site.
- 3.13.17. The majority of the onshore ECC crosses agricultural land uses. Natural England's (NE) provisional ALC mapping is used to classify ALC grades and quantify the amount of land for each grade of soil for individual onshore ECC segments from table 25.4 to 25.17 and 23.4 to 23.17. Land around the OnSS and connection area (ECC segments 13 and 14) are classified as 100% grade 1. The applicant's assessment assumes all grade 3 ALC land to be grade 3a in order to assess a worst case scenario. As such, the majority of the onshore ECC uses BMV agricultural land.
- 3.13.18. Table 29.15 [\[APP-084\]](#) of the ES provides an overview of provisional agricultural land use in the onshore ECC by grade totalling 857 hectares (ha) as set out below. Paragraph 69 of Chapter 29 of the ES states that this land is predominantly used in the production of vegetables and that across the UK, 84,825ha of farmland was used to grow vegetables in 2022. As such, the onshore ECC is approximately equivalent to 1% of the land available to grow vegetables commercially in the UK. The amount of vegetable producing land in the UK is also cited in the ES as having decreased by 20% between 2012 and 2022.

Table 3 Overview of provisional agricultural land use in the onshore ECC by ALC grade

Land grade	Area (ha)	Share of total
Grade 1	478	56%
Grade 2	184	21%
Grade 3	181	21%
Non-graded	14	2%
Total	857	100%

- 3.13.19. As identified in figure 25.2 [\[AS1-060\]](#), several environmental stewardship scheme agreements are located in the study area, including organic entry level plus higher level stewardship.
- 3.13.20. In relation to the future baseline, section 25.3.4 [\[AS1-050\]](#) and 23.4.4 [\[APP-078\]](#) of the ES do not envisage significant change with the Order limits predominantly being high quality agricultural land. However, potential effects arising from climate change such as increased flooding are noted.
- 3.13.21. The Maximum Design Scenario (MDS) considered for land use and geology is set out in table 25.18 [\[AS1-050\]](#) of the ES for each phase of the proposed development and includes the maximum footprint and duration of different works. These include the temporary haul road along the onshore ECC and 400 kilovolt (kV) cable corridor that would be approximately 6.8m in width and up to 9m wide at passing places during construction for up to 51 months although, where practicable, it would be reinstated. Also, during the construction phase, the onshore ECC is identified as having a width of approximately 80m and 70km in length whilst the 400kV cable corridor is assessed as being 4km in length and 60m wide. Cables would be installed in one trench per circuit (typically, maximum of four trenches for up to four circuits), with each trench up to 5m wide at the surface and up to 3m deep.
- 3.13.22. The footprint of the OnSS site including associated infrastructure and landscaping is cited in table 25.18 [\[AS1-050\]](#) as being 261,500m² based upon the potential use of Air Insulated Switchgear (AIS) at the substation which has a larger footprint. This land is assumed to be lost permanently to agriculture.
- 3.13.23. Equivalent details are provided for the MDS in table 23.18 [\[APP-078\]](#) for geology and ground conditions to those specified for land use. For socio-economics, table 29.21 [\[APP-084\]](#) assumes a worst case scenario for the UK vegetable market as being all land in the onshore ECC unable to produce crops for at least 1 year, increasing to 3 years at landfall and around the OnSS. It also assumes that all land in the onshore ECC is currently used to produce vegetables.
- 3.13.24. In relation to the consideration of alternatives, section 8.4 of Chapter 4 of the ES [\[APP-059\]](#) acknowledges the need to preserve BMV land. It goes on to explain that at Weston Marsh, all land within a 6km radius of the National Grid T-junction which is critical to the proposed development connection, is grade 1 ALC. As such, all land within the area of search for OnSS is grade 1. Section 9 of Chapter 4 of the ES and figures 4.20 to 4.25 [\[APP-090\]](#) detail the evolution and refinement of onshore ECC options. Annex A of Chapter 4 of the ES sets out a quantitative analysis for the

onshore ECC options. At paragraph 314, the applicant states that whilst it is not able to avoid impacting BMV land, it considers that the adoption of the alternative route option supports policy requirements to avoid BMV where there are suitable alternatives.

The applicant's assessment of effects and proposed mitigation

- 3.13.25. Section 25.5 of the ES [\[AS1-050\]](#), sets out embedded mitigation measures for land use for each phase of the proposed development. They include the development and implementation of a Code of Construction Practice (CoCP), Pollution Prevention and Emergency Incident Response Plan (PPEIRP) and Soil Management Plan (SMP) to manage related impacts during the construction phase. Outline versions of the CoCP [\[APP-268\]](#), SMP [\[APP-271\]](#) and PPEIRP [\[APP-272\]](#) form part of the application. Embedded mitigation during the operational and maintenance phase includes the burial of the onshore ECC and 400kV cabling along the entire length at a depth to enable agricultural operations to continue unaffected. More generally, site selection such as the adoption of an alternative ECC to the north of the A52 to reduce the amount of grade 1 agricultural land is cited along with appointment of a local drainage contractor to ensure the pre-construction and post-construction drainage schemes are designed in a harmonic way with the current agricultural drainage systems, according to the applicant.
- 3.13.26. Embedded mitigation for geology and ground conditions as identified in table 23.19 [\[APP-078\]](#) broadly mirrors that for land use whilst embedded mitigation measures for socio-economics in section 29.6 [\[APP-084\]](#) cross refers to them.
- 3.13.27. No additional mitigation measures are identified for land use, geology and ground conditions or socio-economics.
- 3.13.28. Land use effects of the project alone are assessed in section 25.7 of the ES [\[AS1-050\]](#). Table 25.30 summarises effects and residual impacts for the proposed development. Significant adverse (major) effects and residual effects for the proposed development alone are identified for the loss of agricultural land during the operation and maintenance phase. A total of 26.38ha of agricultural land is identified as being permanently lost, inclusive of the OnSS, associated infrastructure and landscaping as well as link boxes along the onshore ECC.
- 3.13.29. No other significant effects related to land use are identified for the proposed development alone. Furthermore, no significant effects are identified for geology and ground conditions as summarised in table 25.25 [\[APP-078\]](#) or for the socio-economic effects on UK vegetable market as summarised in table 29.63 [\[APP-084\]](#).

Cumulative effects assessment

- 3.13.30. The applicant's approach to the cumulative impact assessment is set out in section 25.8 [\[AS1-050\]](#), 23.8 [\[APP-078\]](#) and 29.9 [\[APP-084\]](#) of the ES respectively for land use, geology and ground conditions and socio-economics. Other projects considered, related MDSs and the amount of BMV agricultural land affected are identified in table 25.25 in relation to the land use cumulative effects assessment. Other projects assessed include the proposed National Grid Substation (NGSS) at Weston Marsh that the proposed development would connect to. A total of 20.9ha of grade 1 agricultural land is assessed as being lost from the NGSS. Other projects include a proposal for the Naylor Farms Protein Extraction and Anaerobic Digester Plant adjacent to the Order limits at the OnSS, proposed solar farms and housing developments in the vicinity.

- 3.13.31. The NGSS is also considered as part of the assessment of cumulative effects for geology and ground conditions as identified in table 23.24 [APP-078]. The cumulative effects assessment for impacts on the UK vegetable market considers other National Significant Infrastructure Projects (NSIPs) in Lincolnshire that cumulatively would lead to the loss of 390ha of BMV land as identified in table 29.60 [APP-084].
- 3.13.32. Table 25.30 [AS1-050] summarises effects for the project alone and cumulatively. Significant adverse (major) effects and residual impacts are identified for the following:
- cumulative loss of agricultural land within the vicinity of the OnSS area. A total loss of 61.58ha is identified inclusive of the NGSS and Naylor Farms development
 - cumulative loss of agricultural land within Lincolnshire. The combined cumulative loss of BMV agricultural land across Lincolnshire is identified as 1020.43ha which equates to approximately 0.26% of the 395,266.67ha of BMV land across Lincolnshire
- 3.13.33. No other significant effects related to land use are identified for the proposed development cumulatively. Furthermore, no significant effects are identified for geology and ground conditions as summarised in table 25.25 [APP-078] or for the socio-economic effects on UK vegetable market as summarised in table 29.63 [APP-084].

Issues considered during the examination

- 3.13.34. Based on the comments raised by Interested Parties (IP) and the ExA's review of the application documents and those submitted during the examination, the key issues considered during the examination were:
- the applicant's approach to ALC and soil surveys
 - the loss of BMV agricultural land and related consideration of alternatives
 - working width of the onshore ECC
 - cable burial depth and agricultural drainage
 - soil handling and restoration
 - the effects of climate change on soils
 - restrictive covenant amendments to address waterlogging
 - severance of agricultural land
 - dust contamination of crops during construction
 - soil heating from cabling
 - effects on organic farming
 - the applicant's consideration of impacts on open space and outdoor recreational land
 - impacts on designated geological sites and geodiversity
 - impacts on minerals and waste

The applicant's approach to ALC and soil surveys

- 3.13.35. NE's relevant representation (RR) [RR-045] identified concerns that the applicant's assessment of BMV land relied upon NE's own provisional mapping. It considered that in the absence of a detailed site-specific soil and ALC survey it would be impossible to provide an accurate baseline and demonstrate likely impacts. NE also identified a need for the applicant to identify areas of deep peaty and peaty soils in the area. As such, NE sought surveys across the study area at a detailed level, for

example, one auger boring per hectare supported by data from pits in each main soil type to confirm the physical characteristics of the full depth of soil.

- 3.13.36. NE [\[RR-045\]](#) considered that this information should then be used to update the ES, inform micro-siting, soil handling and restoration. To confirm the impacts on BMV land, NE sought a breakdown of the subsequent ALC survey for the cable route, areas of permanent infrastructure and habitat enhancement. NE highlighted that this information was necessary to inform the decision maker in line with NPS EN-3.
- 3.13.37. Lincolnshire County Council's (LCC) RR [\[RR-004\]](#) and Local Impact Report (LIR) [\[REP1-053\]](#) also highlighted the absence of ALC survey data. Whilst LCC noted that the applicant's outline SMP did commit to undertaking a detailed ALC survey prior to construction, LCC sought confirmation of when this would take place so that it could be considered by LCC and that survey points should be made at least every 100m and in each field where the field is less than 100m in length. LCC also highlighted the Written Ministerial Statement (WMS) Solar and protecting our Food Security and Best and Most Versatile (BMV) Land of 15 May 2024 (UIN HCWS466) which includes a requirement for information on soil surveys meeting an agreed standard.
- 3.13.38. T.H. Clements & Son Ltd [\[REP1-050\]](#) also raised concerns regarding pre- and post-construction surveys as set out in the outline SMP in relation to matters including the distance between survey points and the need for additional testing of the upper subsoil. However, as confirmed in schedule 1 of its closing submissions [\[REP6-157\]](#), following discussions with the applicant, the final version of the outline SMP [\[REP6-060\]](#) addresses its concerns in this regard.
- 3.13.39. In response to NE's request for ALC and soil surveys to be undertaken prior to any consent being granted, the applicant's position remained consistent during the examination. The applicant's closing statement [\[REP6-121\]](#) outlines that whilst its assessment in Chapter 25 of the ES is based upon provisional ALC mapping which does not differentiate between grade 3a or 3b within the grade 3 identified. As the applicant has assumed that all grade 3 land to be grade 3a, the assessment in the ES provides a realistic worst case scenario for identifying significant effects. As such, the applicant considers that detailed ALC surveys are not necessary to reach conclusions on the significance of environmental effects.
- 3.13.40. However, the applicant [\[REP6-121\]](#) goes on to confirm its commitment to undertake detailed ALC and soil surveys post-consent, if granted, to provide information on the precise condition of the soils to allow bespoke mitigation for that soil to be applied, based on the measures set out in the outline SMP.
- 3.13.41. The commitment to undertake these surveys and their scope is set out in section 1.8 of the final outline SMP [\[REP6-060\]](#). This includes survey points at least every 100m or in each field where the field is less than 100m in length, up to a depth of 1.2m and with an additional point at 50m, in order to provide a more accurate picture when changes in soil type or depth are identified. This would be overseen by a Soil Clerk of Works. Requirement (R)18 of the draft Development Consent Order (dDCO) [\[AS-042\]](#) requires the approval of the final SMP by LCC in consultation with relevant statutory nature conservation body and others and which must be in accordance with the outline.
- 3.13.42. In its response to the ExA's first written questions (ExQ1) Q LU 1.7 [\[REP2-051\]](#), the applicant also identified several other examples of Development Consent Order (DCO) applications being approved by the Secretary of State (SoS) in the absence of ALC surveys. They include Hornsea Four Offshore Wind Farm and the

Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Project. The applicant also points to the advice given by NE for these other projects at the time which, whilst expressing a preference for pre-consent ALC surveys, accepted that the matter could be addressed at a later date via a planning condition. The applicant's conclusion is that there is no NPS policy requirement that would be infringed by this approach.

- 3.13.43. LCC's response to the ExA's Further Written Questions (ExQ2) LU 1.2 [\[REP4-133\]](#) expressed a preference for pre-consent ALC surveys but acknowledged that it could be dealt with by requirement. Towards the end of the examination, the final signed Statement of Common Ground (SoCG) between the applicant and LCC [\[REP5-135\]](#) indicates that ALC survey matters are agreed between the two parties.
- 3.13.44. However, as evidenced in NE's final Risk and Issues Log [\[REP6-153\]](#) and supporting appendix on soils [\[REP5-169\]](#), its concern regarding the absence of pre-consent surveys remained at the close of examination. In response to the ExA's further written questions (ExQ2) LU 1.2 [\[REP4-143\]](#), NE acknowledged that whilst other DCO applications had been approved in the absence of pre-consent ALC surveys, for this project which is likely to impact on BMV soils, a pre-consent survey is essential.
- 3.13.45. Whilst the applicant did not undertake pre-consent ALC and soil surveys, in response to action point 12 from Issue Specific Hearing (ISH) 5 [\[EV9-001\]](#), it did provide a breakdown of ALC grades for the permanent infrastructure, habitat enhancement, disturbed and undisturbed land, based upon NE's provisional mapping rather than its own survey data [\[REP4a-120\]](#) as required by NE. This information is discussed later in this section.
- 3.13.46. In relation to peat, NE's final position on soils reiterates its position that in line with the Institute of Environmental Management and Assessment (IEMA) guidelines a "Soil Resources Plan, Soil/Peat Management Plan and Quantified Proposed beneficial uses of temporarily and permanently displaced soils", should be carried out pre-consent to inform the environmental impact assessment (EIA). However, NE acknowledges and supports the commitment made by the Applicant during the examination to prepare a Peat Management Plan (PMP) if peat is confirmed as present during pre-construction surveys. This would include good practice guidance on excavation, re-use, storage, handling, reinstatement and monitoring and inspection as specified in the outline CoCP [\[REP6-056\]](#) which is secured under R18 of the dDCO [\[AS-042\]](#).

The ExA's reasoning on the applicant's approach to ALC and soil surveys

- 3.13.47. The ExA notes that by the close of the examination, neither LCC nor T.H. Clements & Son Ltd had outstanding objections in relation to the applicant's approach to ALC or soil surveys. However, NE's fundamental concern regarding the need for pre-consent surveys remained.
- 3.13.48. The ExA concurs with the applicant's position that there is no specific policy requirement in the suite of NPSs which mandates ALC and soil surveys to be undertaken pre-consent. This approach is also consistent with that taken by the SoS on other made DCOs. Whilst the availability of such information to inform the EIA would have provided a greater degree of certainty of soil quality and grading, the ExA considers that the applicant's worst-case scenario of assuming all provisional grade 3 ALC land to be grade 3a, and therefore BMV land, to be appropriate.

- 3.13.49. The ExA also notes that land in the vicinity of the OnSS where the majority of permanent BMV loss is anticipated is provisional ALC grade 1. As such, a worst-case scenario has also been assessed in this area.
- 3.13.50. Furthermore, the ExA is satisfied that there is suitable commitment to undertaking ALC and soil surveys pre-construction, should consent be granted by the SoS as detailed in section 1.8 of the outline SMP, a final version of which is secured by R18 of the dDCO [\[AS-042\]](#).
- 3.13.51. The outline SMP also makes provision for soil handling and restoration measures to be informed by pre-construction and post-construction surveys. As discussed later in this Recommendation, section 1.26 of the outline SMP now also makes an explicit commitment for “...*the land to be returned to its baseline agricultural land classification*”.
- 3.13.52. In conclusion, the ExA considers that the applicant has adequately identified effects on soil as required by NPS EN-1 paragraph 5.11.13 and NPS EN-5 paragraph 2.9.25.

The loss of BMV agricultural land and related consideration of alternatives

- 3.13.53. As discussed above, Chapter 25 of the ES [\[AS1-050\]](#) identifies residual significance adverse effects in relation to the loss of agricultural land during the operation and maintenance phase of the proposed development alone. Significant residual adverse cumulative effects are also identified in the context of other planned developments in the vicinity of the OnSS and across Lincolnshire.
- 3.13.54. General concerns were raised in multiple RRs regarding the loss of BMV agricultural, particularly given the prevalence of grade 1 land which is highly productive. These include RRs from the Well Parish Meeting [\[RR-007\]](#) and multiple IPs represented by Brown & Co LLP including George Hay & Sons Limited [\[RR-024\]](#) and G-VEG Limited [\[RR-026\]](#).
- 3.13.55. In the context of its request for pre-consent ALC surveys, NE's [\[RR-045\]](#) sought a breakdown of the Order limits into disturbed and undisturbed land categories taking account of permanent infrastructure and landscaping, split by ALC grade, to help illustrate the potential for impact on agricultural land. It also identified the need to consider the cumulative loss of BMV land at a national and regional scale as well as omissions in the applicant's list of other NSIP projects considered in the cumulative effects assessment and listed in table 25.27 [\[AS1-050\]](#).
- 3.13.56. In response to action point 12 from ISH5 [\[EV9-001\]](#), the applicant provided a breakdown of the provisional ALC grade for the permanent infrastructure and habitat enhancement and disturbed / undisturbed land across the Order limits [\[REP4a-120\]](#). This breakdown identified a permanent loss of 36.48ha of BMV agricultural land for the proposed development alone. The applicant acknowledges that this is an increase from the loss of 26.38ha as reported in Chapter 25 [\[AS1-050\]](#) and 29 of [\[APP-084\]](#) the ES. The applicant's conclusion on effects remains the same – significant adverse residual effects.
- 3.13.57. By the close of the examination, NE confirmed [\[REP5-169\]](#) that it was supportive of the applicant's updated cumulative assessment at a regional scale and consideration of BMV impacts at a national scale [\[REP4a-060\]](#).
- 3.13.58. On a regional scale (East Midlands), the assessment with updated details of NSIP projects, concluded that they amounted to the loss of 0.699% of agricultural land

within the region, and 1.606% of BMV land and that, on the assumption that all projects listed were to be constructed over a 5 year period, the annual loss of land would be 0.139%. This is based on an estimated total loss of 8155.56ha of BMV land across the region. As the average annual loss of agricultural land is below the expected 0.166% average loss nationally, the applicant concluded that the cumulative effects of the proposed development and the other projects would not result in significant cumulative effects at the regional (East Midlands) scale.

- 3.13.59. At a national scale, the assessment [\[REP4a-060\]](#) identified a total of 8.7 million hectares of agricultural land, thus, permanent loss of agricultural land as a result of the proposed development would account for the loss of 0.000303% of available agricultural land. On the basis that annual losses of farmland from all other activities is estimated to be 0.166%, the applicant concluded that this would constitute a negligible, non-significant effect in EIA terms.
- 3.13.60. The applicant submitted revised versions of Chapter 23 [\[REP4a-015\]](#), 25 [\[REP6-022\]](#) and 29 [\[REP4a-027\]](#) of the ES to reflect the revised figures relating to the loss of agricultural land. The applicant's conclusions regarding significant effects in the updated Chapter 23 and Chapter 25 of the ES remain unchanged. Significant (major) residual adverse effects were still identified for the proposed development alone and cumulatively.
- 3.13.61. However, in addition to the increased loss of agricultural land for the proposed development alone of approximately 10ha, the ExA also notes the much larger increase of the cumulative loss of agricultural land across Lincolnshire of 2054.11ha in contrast with the 1020.43ha originally reported in section 25.8.2 of the ES. This equates to approximately 0.52% of BMV land in Lincolnshire rather than 0.26%. This increase is attributed to increases in the amount of BMV land recorded as lost in table 25.27 on other NSIP projects, including the proposed Lincolnshire Reservoir which is at the pre-application stage at 1622.09ha.
- 3.13.62. However, due to the increased cumulative loss of BMV agricultural land arising from NSIP projects of 4748ha, in comparison with the figure of 417ha originally identified in Chapter 29 of the ES, the revised Chapter 29 of the ES [\[REP4a-027\]](#) draws updated conclusions regarding effects on the UK vegetable market during both the construction and operation and maintenance phases. For both phases, the magnitude of impacts increases from negligible to minor with corresponding revisions to the significance of effects as summarised in table 29.63. Nevertheless, this is deemed to be not significant by the applicant.
- 3.13.63. At ISH8, the ExA queried the applicant's justification for its new conclusion of minor adverse effects on the UK vegetable market given the scale of the increased loss of agricultural land assessed. In response, the applicant explained [\[REP6-113\]](#) that the primary reason for the increase was that further details were available for Lincolnshire Reservoir project amongst others to enable consideration. It also stated that the original assessment was of a 0.02% equivalent change in price of vegetables in terms of magnitude impact based on 417 ha loss, placing it the bottom end of the negligible parameter. Even when the original assessment figure is multiplied by 10 or 12, the updated assessment of magnitude of 0.27% as identified in table 29.61 only just meets the threshold of minor defined in Chapter 29 of the ES [\[REP4a-027\]](#) which is 0.25% of the equivalent change in price of vegetables.
- 3.13.64. LCC's RR [\[RR-004\]](#) highlighted the importance of Lincolnshire to agricultural production, noting that the county is home to around 25% of the UK's vegetable production and which also is of importance for the local economy. Whilst LCC

acknowledged that the proposed development would have mainly a temporary impact on agriculture and soils, it expressed concern regarding the permanent loss of agricultural land, including the loss of grade 1 land at the OnSS.

- 3.13.65. LCC's written representation (WR) [\[REP1-043\]](#) and LIR [\[REP1-053\]](#) echoed these concerns and highlighted national and local policies that pertain to developments that may impact BMV agricultural land, namely, NPS EN-1 paragraph 5.11.12 and 5.11.34, NPPF paragraph 180 and 181 along with footnote 62 (as per the NPPF extant in October 2024) and East Lindsey Local Plan Core Strategy Policy 10 (Design) and South East Lincolnshire Local Plan Policy 31 (Climate Change and Renewable and Low Carbon Energy). LCC also considered that the permanent loss of agricultural land identified by the applicant was significant not only at a local level but cumulatively with other projects in Lincolnshire.
- 3.13.66. In relation to the consideration of site selection and alternatives, LCC [\[REP1-053\]](#) notes the applicant's consideration in Chapter 25 of the ES [\[AS1-050\]](#) and acknowledges that in applying a 6km search area around the proposed NGSS connection point, the use of grade 1 BMV land could not be avoided in determining the site for the proposed OnSS. Furthermore, LCC acknowledges that its preferred onshore ECC route impacted less grade 1 BMV land than had originally been proposed prior to the submission of the application. However, LCC could not support the use of grade 1 land.
- 3.13.67. As set out in LCC's final SoCG [\[REP5-135\]](#) and closing statement [\[REP6-158\]](#), its concerns regarding the loss of BMV agricultural land remain at the close of the examination. LCC acknowledged that the NPPF as updated in December 2024 has revised wording. However, it still considered that the government remains clear in that food security is important for national security, and where the significant development of agricultural land is necessary, poorer quality land should be preferred to those of a higher quality.
- 3.13.68. LCC's closing statement [\[REP6-158\]](#) emphasises its concern regarding the cumulative loss of BMV agricultural land across Lincolnshire from the proposed development and other NSIP projects. LCC highlights that the loss of such land continues to increase as further projects come forward and that there is no threshold set by government to define the tipping point when the cumulative loss of BMV land in the county becomes unacceptable. LCC considers the cumulative loss of BMV land as identified by the applicant to be unacceptable. LCC concludes that it would be in the gift of the SoS to set a limit on what level of loss is acceptable, *"Otherwise the purpose of cumulative assessment will never be actioned as each project on its own may have an acceptable loss of BMV when considered in the planning balance whilst the cumulative figure continues to grow without ever being checked to identify when that tipping point into unacceptability is reached."*
- 3.13.69. T.H. Clements & Son Ltd's RR [\[RR-067\]](#) identified concerns regarding the preferred onshore ECC route (option 1) and suggested that route option 2 considered by the applicant in Chapter 4 of the ES [\[APP-059\]](#) would use less grade 1 agricultural land. T.H. Clements & Son Ltd also questioned the applicant's approach to assessing the route options. In particular, the applicant's assessment applies equal weighting to all ALC grades. William Barker's RR [\[RR-077\]](#) also suggested that to avoid the use of grade 1 agricultural land, the onshore ECC route should have been located along the landward side of the outer sea bank where it would not be impacted by arable cultivations.

- 3.13.70. In response to ExQ1 LU 1.1 [REP2-051], the applicant explained its approach to ranking route options stating that its supporting plan in figure 1.14 Q1 LU 1.2 shows that the route which ranks first on this 'ALC only' approach was not chosen, although it is almost identical to the chosen route, except for an area of Grade 3 land near Thorpe St Peter. The applicant stated that this was due to the higher number of residential receptors that could be affected and a significantly more complex engineering crossing of the Steeping River and Railway which would result in greater impacts and therefore constitute a less desirable option overall.
- 3.13.71. The ExA also sought further clarity from the applicant on the location of the onshore ECC route options considered as well as the amount of BMV land impacted by each of them. In response to ExQ2 LU 1.1 [REP4a-110], the applicant duly provided a corrected table and route option map in appendix 2.12 showing a breakdown of provisional ALC grades per route option. This confirmed that the preferred route option taken forward into the application was ranked second best in terms of impacts on BMV land with a total of 1194.55ha of BMV land. Whilst several other route options identified impact less grade 1 land, the preferred route affects the second least amount of BMV land overall. As explained above, the applicant's selection of the preferred route option (2A) which runs to the north of the A52 also takes wider constraints into account.
- 3.13.72. The applicant's closing statement [REP6-121], in addressing LCC's position on the onshore ECC route also states that the Council's objection to the use of grade 1 agricultural land does not indicate inconsistency with NPS EN-1 paragraph 5.11.12 which states that "*Applicants should seek to minimise impacts on the best and most versatile agricultural land...*". The applicant's position is that it has sought to minimise such impacts.
- 3.13.73. In addition to the cable route, the ExA also sought further justification for the area of search of the OnSS, given that it is in an area exclusively consisting of grade 1 agricultural land according to provisional mapping. In response to ExQ1 LU 1.3 [REP2-051], the applicant explained that the closest point to the National Grid T-junction outside of grade 1 land is on the bank of the River Welland and adjacent to a Royal Society for the Protection of Birds nature reserve and so was considered inappropriate for an OnSS. The next closest location outside of grade 1 land is located 9.5km north in an area with a provisional ALC grade of 2. The applicant's response, supported by the accompanying Onshore Electrical Systems Technical Note [REP2-051], goes to set out in detail the technical reasons why it would not be reasonable or appropriate to increase the area of search around the National Grid T-junction due to constraints relating to both the 400kV transmission cable and 275kV export cable.
- 3.13.74. Walter Smith (Gosberton) Ltd identifies concerns [REP1-049 and AS-034] regarding the loss of grade 1 agricultural land arising from the applicant's proposed planted landscaping strip in the vicinity of the OnSS. Walter Smith (Gosberton) Ltd contests the applicant's position [REP3-038] that the landscaping strip is necessary to provide mitigation for the OnSS, specifically, to provide screening for residential properties, walkers and road users. The applicant states that it had sought to minimise effects on agricultural land by proposing landscaping strips at field edges. The applicant also reiterates that there is no alternative land in the vicinity of the proposed OnSS that was not provisional grade 1.

The ExA's reasoning on the loss of BMV agricultural land and related consideration of alternatives

- 3.13.75. The ExA notes the applicant's identification of significant adverse effects for the permanent loss of BMV agricultural land for the proposed development alone during the operation and maintenance phase as well as cumulatively with projects in the vicinity of the OnSS and additionally at the county scale with projects across Lincolnshire. The ExA concurs with these conclusions and notes that they are not contested.
- 3.13.76. The ExA also considers that the applicant's final conclusion of no significant effects (minor adverse) on the UK vegetable market adheres to the methodology set out for its assessment and therefore accepts them on this basis. The applicant's conclusions of no significant effects in relation to the cumulative loss of BMV agricultural land at the regional (East Midlands) scale and the loss of BMV land in the national context have not been contested and the approach to the assessment is supported by NE. The ExA is also satisfied with the applicant's approach and does not contest its conclusions.
- 3.13.77. Turning to key policy requirements, paragraph 5.11.12 of NPS EN-1 states that applicants should seek to minimise impacts on BMV land and preferably use land in areas of poorer quality. Furthermore, paragraph 5.11.34 of NPS EN-1 also requires the SoS to ensure that applicants do not site development on BMV land without justification. The SoS is also required to take account of the economic and other benefits of the land. These requirements are broadly echoed in the NPPF paragraph 187, 188 and footnote 65 and in East Lindsey Local Plan Core Strategy Policy 10 which the ExA considers to be important and relevant.
- 3.13.78. The ExA is mindful that LCC also considers South East Lincolnshire Local Plan Policy 31 (Climate Change and Renewable and Low Carbon Energy) to be important and relevant in relation to land use. However, its policy in relation to agricultural land falls under part B of the policy regarding renewable energy but which specifically excludes wind energy. Consequently, the ExA does not deem this policy to be important and relevant to the consideration of an offshore wind farm.
- 3.13.79. In this context, the ExA considers that in relation to the routing of the onshore ECC, whilst the applicant has not pursued the least worst option in the terms of impacts on BMV for the onshore ECC route, it has sought to minimise impacts on BMV land and to use poorer quality land as far as is reasonably practicable having regard to other constraints such as residential receptors.
- 3.13.80. In relation to the OnSS, the applicant has not been able to minimise impacts on BMV or utilise poorer quality land as it is located with an area with a provisional ALC grade of 1. The subsequent significant adverse effect for the permanent loss of agricultural BMV land alone and cumulatively at both the local and county scale weigh against the proposed development. However, the ExA considers that the applicant has sufficiently justified the siting of the OnSS and demonstrated that there are no other feasible locations within a reasonable distance of the National Grid T-junction that is critical to the proposed NGSS and connection of the proposed development to the grid.
- 3.13.81. The ExA also notes that at the close of the examination, T.H. Clements & Son Ltd [\[REP6-157\]](#) did not have outstanding concerns regarding the consideration of alternatives insofar as they relate to minimising the use of BMV land. LCC also did not object on the basis of the applicant's consideration of alternatives [\[REP5-135\]](#),

but its concerns regarding the loss of BMV land for the proposed development alone and cumulatively remained.

- 3.13.82. The economic and other benefits of the use of BMV land have been considered by the applicant through the assessment of the socio-economic effects on the UK vegetable market. As noted above, minor adverse effects are identified which are not significant. This must be viewed in contrast with the substantial benefits of the proposed development in terms of renewable energy production and carbon savings and related policy and legal requirements, including those in the British Energy Security Strategy and Climate Change Act 2008.
- 3.13.83. The ExA is conscious of the significant adverse effects relating to the loss of BMV agricultural land for the proposed development alone and cumulatively at a local and county scale and LCC's outstanding related concerns. In relation to LCC's concern that the cumulative loss of agricultural land continues to grow without consideration of when the tipping point into unacceptability is reached, the ExA's view is that there is no defined threshold upon which it can clearly draw such a conclusion. Nevertheless, the ExA considers that the significant adverse effects identified should be a key consideration in the planning balance.
- 3.13.84. Turning to the concerns of Walter Smith (Gosberton) Ltd, the ExA is mindful of NPS EN-1 paragraph 5.11.23 which requires applicants to minimise effects on land uses, including through the application of good design principles and the layout of the project. In locating the planted landscaping strips to the edge of fields, the ExA considers that the applicant has sought to minimise effects on the use of BMV agricultural land. Whilst the final design for landscaping proposals has yet to be agreed, the applicant's position is that the landscaping is necessary in this location. Final details of the landscaping will need to be agreed by LCC in consultation with the relevant planning authority and the relevant statutory nature conservation body under R10 of the dDCO [\[AS-042\]](#).
- 3.13.85. In summary, the ExA considers that the proposed development accords with relevant policy requirements but that there would be unavoidable significant adverse effects for the project alone and cumulatively relating to the loss of BMV agricultural land.

Working width of the onshore ECC

- 3.13.86. T.H. Clements & Son Ltd [\[RR-067\]](#) and [\[REP1-050\]](#) questioned the applicant's justification for the working width during the construction of the onshore ECC of 80m. The issue was explored by the ExA during the examination. The applicant's position, that flexibility is required for micro-siting at the detailed design stage for sections where cabling will be provided via open cut trenches or via trenchless techniques. This is considered necessary by the applicant to avoid constraints such as poor ground conditions, obstacles and to align with farming practices.
- 3.13.87. Following ongoing dialogue between the two parties, at Compulsory Acquisition Hearing 2, T.H. Clements & Son Ltd confirmed [\[REP6-157\]](#) that it was satisfied with the applicant's detailed explanation [\[REP5-150\]](#).

The ExA's reasoning on the working width of the onshore ECC

- 3.13.88. The ExA is satisfied that the applicant has sufficiently justified the working width of the onshore ECC during the construction phase from a land use perspective. The flexibility provided for micro-siting will facilitate the applicant's ability to minimise effects via design and layout in keeping with NPS EN-1 paragraph 5.11.23. No

outstanding objection on this issue remained at the close of the examination. The case for compulsory acquisition is considered separately in chapter 6 of this Recommendation.

Cable burial depth and agricultural drainage

- 3.13.89. Concerns were raised in 28 RRs regarding the minimum burial depth of onshore cabling of 1.2m to the top of the protective tile that was considered insufficient by IPs including T.H. Clements & Son Ltd [\[RR-067\]](#) multiple IPs represented by Brown & Co LLP including J W Grant & Co [\[RR-033\]](#), The Lincolnshire Association of Agricultural Valuers Land Interest Group (LIG) [\[RR-035\]](#), multiple IPs represented by Hub Rural Ltd including W T Taylor & Sons [\[RR-076\]](#) and IPs represented by Fraser Dawbarns LLP including Alan Harold Naylor [\[RR-087\]](#).
- 3.13.90. More specifically, IPs considered that 1.2m would not be sufficient in local soils, known as running sands or silts which are unstable, particularly during heavy rain. It was considered by IPs that this presented risks to farm machinery that may get bogged down and come into contact with cabling which presents a safety risk. Related drainage concerns were also identified as the proposed cable depth may make it impossible to reinstate drainage due to drainage systems and cables being the same depth. Cabling also may compromise field drainage systems and affect water table depth. Ongoing monitoring of the cable depth was also requested by IPs to detect potential movement of the cable due to ground stability issues and avoid conflict with agricultural operations.
- 3.13.91. The applicant's response to these RRs [\[PD1-071\]](#) acknowledges the concerns regarding silts and clarified that it had therefore deviated from the industry standard as set out for UK transmission assets (as detailed in the Energy Networks Association, Engineering Recommendation G57. Issue 2, 2019 clause 4.2) of a minimum cable depth of 0.9m. Instead, the applicant agreed to a deeper minimum burial depth of 1.25m to the cable. The applicant also highlighted the depth of other cables in the vicinity such as those connecting with the Triton Knoll offshore windfarm where a depth of 1.1m was applied in similar ground conditions.
- 3.13.92. The applicant's response to RRs [\[PD1-071\]](#) goes on to explain that existing drainage schemes along the onshore ECC and 400kV cable corridor are generally installed at a depth between 0.9 and 1.0m and so the proposed depth would not conflict with them. It highlighted that it had recently completed ground investigations along the onshore ECC and 400kV cable corridor, the results of which would inform measures at the detailed design stage.
- 3.13.93. Ongoing monitoring was not considered necessary by the applicant [\[PD1-071\]](#) as it considered that the installation method would ensure that cables would remain at their burial depth. Furthermore, it was not aware of any examples of the movement of cables arising at other comparable projects in the vicinity. In relation to the risks of sinking machinery, the applicant notes [\[PD1-071\]](#) that site inspections indicate that rutting associated with such instances is at its deepest between 0.6m and 0.7m. The voluntary option agreements that the applicant was seeking with all landowners along the onshore ECC and 400kV cable corridor permits farming to resume over the installed cables to a depth of 0.75m with a mechanism to permit work at a depth of greater than 0.75m with the applicant's approval. This is considered by the applicant to allow safe working and machine recovery.
- 3.13.94. In response to ExQ1 LU 1.17 [\[REP2-051\]](#), the applicant provided further details of recent ground investigations referred in its response to relevant representations

which it stated supported its position regarding cable depth. These include the stability of trenches to a depth of 1.8m.

- 3.13.95. LCC's response to ExQ1 LU 1.17 [\[REP2-070\]](#) acknowledged that in peaty soils, shrinkage could allow cable to move and become vulnerable to cultivation equipment.
- 3.13.96. T.H. Clements & Son Ltd's response to ExQ1 CC 1.4 [\[REP2-079\]](#) reiterated its call for a mechanism to monitor the position on the onshore cabling due to the risk of movement and conflict with agricultural operations. It stated that this should be secured by a requirement in the DCO with the removal of the cable during decommissioning if the monitoring subsequently identifies movement or conflict. The applicant [\[REP4a-115\]](#) did not consider this to be practical and that such monitoring is itself likely to be disruptive to farming operations. However, the applicant understood that T.H. Clements & Son Ltd was looking into alternative survey methodologies but had not provided any alternatives by the close of the examination.
- 3.13.97. In response to ExQ2 LU 1.8 [\[REP4-107\]](#), the applicant provided details that indicate that the majority of the IPs that raised cable depth as an issue had resolved matters through voluntary agreements. T.H. Clements & Son Ltd were still in negotiations with the applicant on the matter and one other party would not sign Heads of Terms on an agreement but this related to other matters, not cable depth.
- 3.13.98. At the close of the examination, the applicant [\[REP6-121\]](#) considers that its commitment to install cabling 300mm below any existing or reinstated drainage system or any alternative drainage system installed by the applicant as set out in the updated outline CoCP [\[REP6-056\]](#) resolves T.H. Clements & Son Ltd's outstanding concern. The outline CoCP was updated at deadline 6 to incorporate related changes suggested by T.H. Clements & Son Ltd [\[REP5-173\]](#). The outline CoCP also makes provision for a local drainage consultant to collate land drainage plans, design pre-construction and post-construction drainage schemes to maintain drainage and a process for agreeing such schemes with landowners.
- 3.13.99. T.H. Clements & Son Ltd's closing statement [\[REP6-157\]](#) confirms that it is now satisfied with the content of the outline CoCP and it would enable its land to be successfully drained. However, it also identifies the issue of monitoring the depth and lateral position of the onshore cable as an outstanding area of disagreement. Referring back to the applicant's comments on its response to ExQ1 CC 1.4, T.H. Clements & Son Ltd states [\[REP6-157\]](#) that it is unable to identify alternative monitoring solutions without further details regarding the type of cabling to be installed. As this response was provided at the closing deadline, the applicant has not had the opportunity to respond to it. T.H. Clements & Son Ltd has also not agreed the length of indemnity in relation to the reinstatement or replacement of drainage systems.

The ExA's reasoning on cable burial depth and agricultural drainage

- 3.13.100. The concerns regarding the depth of cabling were broadly agreed between parties at the close of the examination. The ExA notes that an indemnity on the reinstatement or replacement of drains has not been agreed between the applicant and T.H. Clements & Son Ltd but this is not a planning matter. Therefore, the ExA is satisfied that the outline CoCP adequately makes provision for agricultural drainage as is agreed by T.H. Clements & Son Ltd.

- 3.13.101. However, the question of whether ongoing monitoring of the potential movement of the onshore ECC and 400 kV cable should be undertaken remains. Whilst T.H. Clements & Son Ltd seek such monitoring, there is no obvious means by which this could be achieved without unduly disrupting farming practices. LCC acknowledges that cable movement in peaty soils is a possibility but there is no conclusive evidence before the examination to demonstrate that movement is likely to occur. In the absence of an appropriate method of monitoring and greater certainty of the need for such monitoring, the ExA does not consider it necessary to recommend the imposition of a requirement to do so.
- 3.13.102. Nevertheless, there does appear to be willingness on the part of the applicant to engage with T.H. Clements & Son Ltd on this issue and the ExA notes that T.H. Clements & Son Ltd and the LIG will be consulted on the CoCP [\[REP6-056\]](#) and SMP [\[REP6-060\]](#) prior to their submission to LCC for approval as specified in the outline versions of the respective documents. Whilst these documents only relate to the construction phase of the proposed development, they may present an opportunity for the parties to discuss post-construction monitoring further and reach a voluntary agreement if necessary.

Soil handling and restoration

- 3.13.103. Issues were raised by multiple IPs regarding the applicant's proposals for soil handling and restoration. NE [\[RR-045\]](#) identified a need for further details to be provided in the outline SMP. These included, in relation to the handling and storage of topsoils and subsoils, reference to the Institute of Quarrying's Good Practice Guide for Handling Soils in Mineral Working and associated rainfall protocols and commitment to ensure that the relevant statutory nature conservation body is consulted on the SMP. NE also sought the restoration of land after 35 years, or sooner if the project is no longer operational, to its original condition and ALC grade to be secured in a decommissioning plan for land proposed to be occupied by permanent infrastructure. A Restoration Plan is also sought by NE to include measures for soil restoration, accompanied by a soil balance.
- 3.13.104. LCC's RR [\[RR-004\]](#) states that the outline SMP is broadly acceptable but LCC sought further details on matters including soil stripping, trenching and restoration.
- 3.13.105. Landowners and farm businesses also raised issues including a lack of sufficient consideration in the outline SMP for local soil profiles, management of running soils or silts, measures for appropriate soil storage, soil moisture criteria for handling and the risk of stone contamination from the construction of the onshore ECC. These issues gave rise to concerns that the generally stone free, high quality local soil would not be maintained or restored. Such concerns were raised by IPs represented by Brown & Co Property and Business Consultants LLP, including Staples Brothers Limited [\[RR-063\]](#) and VER Limited [\[RR-069\]](#) and T.H. Clements & Son Ltd [\[RR-067\]](#).
- 3.13.106. The applicant developed the outline SMP during the course of the examination to address issues identified. A final version of the outline SMP [\[REP6-060\]](#) was submitted at deadline 6. Its position as summarised in the applicant's closing statement [\[REP6-121\]](#) is that the outline SMP has been prepared based on published guidance and that it will be refined into a final SMP with more detailed soil information and mitigation informed by pre-construction surveys which would return land to its baseline condition, including stone content. Section 1.5 of the outline SMP defines the role of a soil clerk of works in relation to the assessment of soils and sign off, reinstatement and aftercare. Section 1.4 identifies the role of an

agricultural liaison officer(s) who would work with the soil clerk of works and liaise between the contractors, landowners and the applicant.

- 3.13.107. The outline SMP [\[REP6-060\]](#) also makes provision for the re-use of surplus soils onsite overlaying trench excavations and in landscaping. Offsite disposal would only be used where on-site use is not feasible and would be in accordance with the Waste (England and Wales) Regulations 2011 and the Site Waste Management Plan which will be submitted for approval as part of the CoCP under R18(2)(f) of the dDCO [\[AS-042\]](#).
- 3.13.108. The outline SMP [\[REP6-060\]](#) also includes a commitment for the final document to be made available to the LIG and T.H. Clements & Son Ltd for comments ahead of its submission to LCC for approval in consultation with the relevant local planning authority and statutory nature conservation body under R18(2)(l) of the dDCO. By the close of the examination, T.H. Clements & Son Ltd [\[REP6-157\]](#) confirmed that it was satisfied that the outline SMP provides suitable details to ensure that soils are restored to a satisfactory standard.
- 3.13.109. LCC [\[REP6-158\]](#) and [\[REP5-135\]](#) also expressed support for the measures identified in the outline SMP noting that provided the document is implemented and enforced, soils would be restored to a suitable standard. To this end, LCC and the applicant entered into a signed and dated s106 agreement [\[AS-040\]](#) which secures payment from the developer prior to the commencement of the onshore transmission works to fund the appointment of a suitably qualified agricultural specialist. The specialist would undertake assessments following the completion and restoration of the onshore cable route to ensure that the soil has been restored to a condition no worse than recorded during the pre-construction survey. No further representations were provided by the other IPs regarding soils that had raised concerns in RRs.
- 3.13.110. NE's concerns were partially addressed by the applicant at the close of examination as set out in its final advice on soil [\[REP5-169\]](#) and deadline 6 Risk and Issues Log [\[REP6-153\]](#). As requested by NE, the outline SMP now makes further reference to consultation with the statutory nature conservation body. The outline SMPs measures for soil management are also informed by reference to the Institute of Quarrying's Good Practice Guide for Handling Soils in Mineral Working and the Defra Code of practice for the sustainable use of soils on construction sites. Soil handling will also be supervised by a competent soil specialist as specified in the outline SMP [\[REP6-060\]](#) and outline CoCP [\[REP6-056\]](#).
- 3.13.111. However, disagreement between the applicant and NE remains on several matters relating to soil handling and restoration. The applicant's final position is set out in its response to NE's Risk and Issue Log [\[REP6-104\]](#).
- 3.13.112. In relation to NE's request for a commitment remove to infrastructure upon decommissioning and restore to its original condition and ALC grade, the applicant states that the decommissioning plan, to be submitted in accordance with R24 of the dDCO, within six months of the permanent cessation of operation, would be subject to approval by LCC in consultation with bodies including the relevant statutory nature conservation body. Furthermore, the applicant considers that this would be informed by regulations and best practice at the time and that future decisions on land use would need to consider any habitats or species that may establish or protections that may be present in the future.
- 3.13.113. In response to NE's request [\[REP6-153\]](#) for a commitment for BMV land temporarily required for the development to be returned to its original ALC grade, the applicant

points [\[REP6-104\]](#) to the revised outline SMP which commits to returning land to its baseline ALC condition as determined by pre-construction surveys. Whilst the applicant has not provided a separate Restoration Plan accompanied by a soil balance, it states that this will not be possible until the detailed design stage and that any soil calculations at this stage would be speculative. However, the final SMP will include such details and is subject to consultation with NE as per R18 of the dDCO.

The ExA's reasoning on soil handling and restoration

- 3.13.114. The ExA is mindful measures for handling and restoration have been agreed by T.H. Clements & Son Ltd and LCC and welcomes the efforts made by the parties during the examination to address concerns. This is in the context of the further assurance given to LCC through the s106 agreement to support the agricultural specialist to monitor compliance of the SMP and ensure that soils are restored to pre-construction standards. The ExA considers this to be a positive measure in helping to ensure that soils will be handled and restored appropriately.
- 3.13.115. Whilst NE has outstanding concerns regarding specific details, the ExA considers that the outline SMP is just that, an outline document, that will form the basis of a more detailed SMP that will be subject to consultation with the LIG, T.H. Clements & Son Ltd, local planning authorities and the statutory nature conservation body itself prior to approval by LCC.
- 3.13.116. The final SMP will also be informed by the findings of the pre-construction ALC surveys and the ExA notes that section 1.26 of the outline SMP now also makes an explicit commitment for “...*the land to be returned to its baseline agricultural land classification*”. The ExA considers that the outline SMP as secured by R18 of the dDCO [\[AS-042\]](#) provides sufficient detail regarding soil handling and restoration for further consideration and approval in the final document.
- 3.13.117. Accordingly, the ExA considers that the applicant's proposals accord with NPS EN-1 paragraphs 5.11.13, 5.11.14 and 5.11.23. The proposals also accord with paragraph 2.9.25 of NPS EN-5 aside from there being no firm commitment for land impacted by permanent infrastructure to be restored to its previous ALC grade as the applicant considers that the scope for this should be determined at the time of decommissioning.
- 3.13.118. However, as discussed elsewhere in this section, Chapter 25 of the ES [\[REP6-022\]](#) identifies significant adverse effects arising from the permanent loss of BMV agricultural land from the OnSS and other permanent infrastructure that the ExA considers weigh against the making of the Order.

The effects of climate change on soils

- 3.13.119. At ISH3, the ExA sought clarification on the applicant's consideration of the potential effects of climate change related to flooding and implications for earth movement and subsidence that may impact underground cables as required by NPS EN-5 paragraph 2.3.2. The ExA noted that the applicant's Flood Risk Assessment for the onshore ECC and 400vK cable corridor [\[AS1-068\]](#) had assessed a 25% uplift in peak rainfall intensity in light of climate change but that impacts on soils were unclear.
- 3.13.120. The applicant subsequently submitted the Clarification Note: Climate Change, Increased Rainfall and Soil Impacts [\[REP3-055\]](#) which set out the basis for its position. This is that soil saturation in light of a 25% increase in rainfall intensity

would not impact soil structure or stability. Once soils reach the water holding capacity limit, this would result in surface water run-off, ponding, or percolation to groundwater due to the relatively flat topography of the area and extensive drainage network. This would also reduce the risk of subsidence or movement.

- 3.13.121. In response to ExQ2 LU 1.12 which sought comments on the applicant's clarification note, LCC stated [\[REP4-133\]](#) that it was satisfied that climate change implications had been factored in. The Environment Agency (EA) referred to the advice of LCC as the lead local flood authority.
- 3.13.122. T.H. Clements & Son Ltd expressed concern [\[REP4-150\]](#) that increases in both the intensity and frequency of rainfall will increase risk of structural degradation of soils, and that higher levels of rainfall will increase the amount of surface water movement risking collapsing earth. It also highlights although the land is relatively flat, surface water movement to low spots in fields is a significant factor that T.H. Clements & Son Ltd has to address by digging channels out as detailed in its WR [\[REP1-050\]](#).
- 3.13.123. The applicant's closing statement [\[REP6-157\]](#) acknowledges that some disagreement remains between the parties on the long term effects of climate change on soil structure. However, it considers that impacts arising from climate change would occur independently from the proposed development and that there would be no change to surface water hydrology or the soil environment once the onshore ECC is constructed and land reinstated.
- 3.13.124. Furthermore, the applicant considers that a key concern of T.H. Clements & Son Ltd's in relation to implications of rainfall has been addressed and agreed in the outline SMP [\[REP6-060\]](#), namely, a commitment to only commence soil handling during the construction of the proposed development once agreed soil moisture criteria can be met as advised by the Soil Clerk of Works. As discussed previously in this chapter, the outline SMP has been fully agreed by T.H. Clements & Son Ltd [\[REP6-157\]](#).

The ExA's reasoning on the effects of climate change on soils

- 3.13.125. The ExA is satisfied that, with the additional information provided in its clarification note, the applicant has adequately considered the potential for earth movement or subsidence caused by the increased risk of flooding from climate change as required in NPS EN-5. The ExA notes that LCC as the lead local flood authority supports the applicant's approach and the EA defers to LCC on this.
- 3.13.126. Soil handling following rainfall has been agreed with T.H. Clements & Son Ltd and there was no evidence before the examination that proves that structural degradation would occur. Indeed, the applicant's note demonstrates that it would not.
- 3.13.127. The ExA notes T.H. Clements & Son Ltd's concerns regarding waterlogging which already occurs. This issue is considered separately below.

Restrictive covenant amendments to address waterlogging

- 3.13.128. T.H. Clements & Son Ltd sought revisions to schedule 7(B)(c) of the dDCO in relation to its agricultural land interests in order for it to continue to quickly address waterlogging issues by digging trenches as a matter of urgency to avoid crop loss. The need for trench digging and consequences for crop yields if not implemented within 2 to 3 days is set out in appendix 10 to T.H. Clements & Son Ltd's WR [\[REP1-050\]](#).

- 3.13.129. The following drafting, with additional text underlined, was subsequently included in the ExA's recommended changes to the dDCO [\[PD-026\]](#) in recognition of the need for a timely decision given the sensitivity of crops to waterlogging.

"... (c) prevent the carrying out of any excavations or works or agricultural practices to a depth greater than 0.75 metre from the surface of the land, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed, with consent for trench digging requests relating to waterlogging to be determined within 24 hours, if the proposed activity would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development, provided that (for the avoidance of doubt) —"

- 3.13.130. The applicant objects [\[REP5-148\]](#) and [\[REP5-150\]](#) to this insertion on the basis that the wording requires the undertaker to give consent within 24 hours, a decision may not be possible within this timeframe and there is no detail as to what must be included in a trench digging request. Accordingly, the applicant considers that such arrangement would be better dealt with via a voluntary agreement that could provide the necessary caveats and details rather than a one size fits all approach in a DCO.
- 3.13.131. T.H. Clements & Son Ltd's [\[REP6-157\]](#) position as summarised in its closing statement is that the revised drafting is necessary and narrow in scope as it would only apply in instances where there is waterlogging and a threat of crop damage and therefore there would be a need to act quickly. It makes the point that the drafting does not require consent to be granted within 24 hours, only that the application for consent is determined within that time period. This could entail a refusal, including due to a lack of information provided to the undertaker.

The ExA's reasoning on restrictive covenant amendments to address waterlogging

- 3.13.132. Having regard to the positions of both the applicant and T.H. Clements & Son Ltd, the ExA considers that the revisions to the restrictive covenants as identified in the ExA's recommended changes to the dDCO [\[PD-026\]](#) are necessary to ensure that a decision is made within 24 hours of a request to dig trenches to address waterlogging. The amended covenant would require the undertaker to make a decision on a request for trench digging within 24 hours. Approval could be withheld if the activity would cause damage to the authorised development or make it materially more difficult to access or maintain the authorised development.
- 3.13.133. As evidenced in T.H. Clements & Son Ltd's WR [\[REP1-050\]](#), waterlogging is a real and present risk following heavy rain fall and without the provision of trenches, damage to crops occurs within 2 to 3 days. Furthermore, the ExA notes that the applicant's Clarification Note: Climate Change, Increased Rainfall and Soil Impacts [\[REP3-055\]](#) acknowledges that once soils reach their water holding capacity, ponding can occur along with run-off or percolation to groundwater.

Severance of agricultural land

- 3.13.134. RRs from T.H. Clements & Son Ltd [\[RR-067\]](#) and Woodlands Farm (Kirtton) Limited and Andrew Peter Dennis [\[RR-075\]](#) identified concerns regarding the severance of areas of farmland by the onshore ECC during the construction phase. This could leave parts of fields impractical to farm productively. The extent of severed land was also queried by T.H. Clements & Son Ltd.

- 3.13.135. The applicant's closing statement [\[REP6-121\]](#) summarises its approach to addressing the issues. Section 5.14 of the outline CoCP states that the applicant will liaise with landowners and tenants to agree areas that would not be practical to farm and compensate them for any losses associated with the severed land. Management plans for severed areas would also be agreed to determine who will manage the areas and how. Crossing points would also be subject to agreement.
- 3.13.136. By the close of the examination, Woodlands Farm (Kirton) Limited and Andrew Peter Dennis withdrew their objections [\[REP4a-134\]](#). Agreement between the applicant and T.H. Clements & Son Ltd regarding the extent of severed land (42.9 acres or 17.36ha) has also been reached based upon outline details and this will be reviewed again prior to construction. Agreement between the two parties has also been reached [\[REP6-121\]](#) and [\[REP6-157\]](#) regarding any potential future dispute resolution regarding severed land with additional wording inserted into the outline CoCP to refer such matters to an independent surveyor.

The ExA's reasoning on the severance of agricultural land

- 3.13.137. The ExA is satisfied that section 5.14 of the outline CoCP [\[REP6-056\]](#) provides sufficient assurance that impacts on farming operations through the severance of land would be suitably managed with agreement from landowners and tenants. This is secured via R18 of the dDCO [\[AS-042\]](#) that requires the approval of an CoCP by LCC that accords the outline prior to the commencement of onshore transmission works.

Dust contamination of crops during construction

- 3.13.138. The impact of dust contamination on crops during the construction phase of the proposed development was identified as an issue in RRs from T.H. Clements & Son Ltd [\[RR-067\]](#) and IPs represented by Brown & Co Property and Business Consultants LLP including Doreen Belton [\[RR-078\]](#) and Steve Belton [\[RR-079\]](#). In particular, T.H. Clements & Son Ltd emphasised the obligations that it must fulfil to customers, including Tesco PLC. to supply vegetables that are free from defects and contaminants from foreign bodies such as dust. T.H. Clements & Son Ltd consider that failure to meet these standards would put contracts at significant risk and potentially jeopardise the business. T.H. Clements & Son Ltd notes in its RR that it is a leading producer of high-end brassica vegetables and supplies approximately 20% of the brassica market in the UK with approximately 650 staff.
- 3.13.139. BBC [\[RR-001\]](#), ELDC [\[RR-002\]](#) and SHDC [\[RR-005\]](#) also stated that soil stockpiles during construction should be sealed to reduce fugitive dust emissions. The applicant subsequently highlighted a commitment in the outline Air Quality Management Plan (AQMP) [\[APP-270\]](#) to cover or seed exposed areas and soil stockpiles (where soil is to be stored for over 6 months) to stabilise surfaces as soon as practicable and prevent fugitive dust emissions. By the close of the examination, the SoCG between BBC, ELDC and SHDC and the applicant [\[REP5-136\]](#) confirms that all matters relating to the outline AQMP as secured by R18(2)(a) of the dDCO [\[AS-042\]](#) were agreed.
- 3.13.140. The extent of impacts of dust contamination on crops around the onshore ECC, mitigation and related implications for its business raised by T.H. Clements & Son Ltd were a point of contention with the applicant throughout the course of the examination and which remain largely unresolved at its close. In ExQ2 LU 1.6 [\[PD-020\]](#), the ExA sought further comments from IPs represented by Brown & Co Property and Business Consultants LLP regarding concerns expressed in RRs but no responses were received.

- 3.13.141. As acknowledged in T.H. Clements & Son Ltd closing statement [\[REP6-157\]](#) and referenced in the applicant's closing statement [\[REP6-121\]](#), mitigation for dust impacts was agreed between the two parties following amendments to the outline AQMP [\[REP6-058\]](#) to further address construction dust. This includes a commitment for each final AQMP to be updated to incorporate detailed construction data to enhance the accuracy of dust mitigation strategies, further details regarding construction access points and crossings and measures to address dust arising from haul roads. The latter includes the damping down of aggregate haul roads and the use of alternative methods such as trackway where required having regard to the sensitivity of receptors such as commercial farmland.
- 3.13.142. In relation to the extent of dust impacts, T.H. Clements & Son Ltd submitted its Technical Report: Dust Deposition Modelling in support of its WR [\[REP1-050\]](#) due to the sensitivity of its crops and contractual obligations to dust contamination. The report provides a quantitative assessment of dust deposition risk that concludes that even with mitigation, a significant area (107ha) of T.H. Clements & Son Ltd's land would be at high risk of receiving dust deposition at a rate and frequency that could lead to visible dust on growing brassica crops. Unlike the applicant's assessment, T.H. Clements & Son Ltd's report considered that these effects would be experienced beyond the Order limits. T.H. Clements & Son Ltd also consider that its report aligns with the latest Institute of Air Quality Management (IAQM) Guidance and evolving best practice.
- 3.13.143. T. H. Clements & Son Ltd stated that in order to avoid potential dust contamination of its crops as identified in its own assessment, it has obtained a farm business tenancy at Gosberton Farm in advance of the proposed development obtaining consent or proceeding to construction as the opportunity to do so was available. As confirmed at ISH8 [\[REP6-121\]](#), this comprises of 1050 acres (425 ha) of which 689 acres (279ha) is available for growing vegetables. T.H. Clements & Son Ltd considers that more land is needed at Gosberton Farm than is at high risk of dust deposition elsewhere as the land at Gosberton Farm is less productive and 90 acres (36.42 ha) of land farmed by a supplier to T.H. Clements & Son Ltd is also impacted by the proposed development.
- 3.13.144. The applicant's position as summarised in its closing statement [\[REP6-121\]](#) is that its assessment of dust/ PM10 emissions arising from onshore construction works as set out in Chapter 19 of the ES [\[REP4a-013\]](#) will have no significant impacts (negligible) in EIA terms either alone or cumulatively. The applicant states that it has conducted an industry-standard construction dust assessment in accordance with IAQM construction dust guidance as applied to comparable projects traversing farmland, for example, the Sheringham and Dudgeon Extension Project and HS2. Furthermore, the applicant states that the IAQM framework accounts for dust on commercial farmland and that it applied the maximum level (high) of dust risk and protection in its assessment. It states that this is higher than that applied on other comparable linear NSIPs, citing the "medium" protection assigned in for the Sheringham and Dudgeon Extension Project. The applicant considers its assessment to be conservative and robust. It cites that its proposed measures are designed to control dust at source and so are resilient.
- 3.13.145. The applicant also challenged the Dust Deposition Modelling submitted by T.H. Clements & Son Ltd [\[REP1-050\]](#) deeming it unsuitable for various reasons including that it does not account for some key mitigation measures identified in the outline AQMP, it applies outdated emissions factors derived from coal mines in the USA and Australia that are not validated for the UK and that it does not align with IAQM guidance.

3.13.146. T.H. Clements & Son Ltd states [\[REP6-157\]](#) that although the applicant's assessment approach is applied on other linear infrastructure projects traversing farmland, *"it has not confirmed whether or not any of those projects specifically intercepted and/or ran adjacent to farmland subject to a zero tolerance to visible dust contamination – a scenario unique to the ODOW application. We would anticipate not"*. It also considers that the IAQM framework cannot adequately describe the potential impacts on its business, hence it undertook its own modelling. Appendix 4 of its closing statement contests further points made by the applicant in its challenge to its dust deposition modelling.

3.13.147. Although dust mitigation is now agreed by T.H. Clements & Son Ltd, it acknowledges in its closing statement [\[REP6-157\]](#) that the question of the extent of dust impacts is relevant because *"The key issue that remains is the proportion of the Gosberton Farm rent that will be paid by ODOW."* which turns on land use impacts, in particular dust impacts. T.H. Clements & Son Ltd confirms that it is seeking compensation from the applicant for this with discussions ongoing. Whilst it recognises that compensation matters that should be a matter for the Upper Tribunal are beyond the scope of the examination of the proposed development, it considers that:

"The availability or otherwise of compensation is directly relevant to the question of whether or not the award of compulsory acquisition powers is proportionate and to the compelling case test. The Examining Authority and Secretary of State will need to have in mind that, without a deal between the Applicant and T.H. Clements, there will be interference with T.H. Clements occupation of land with adverse consequences for its business."

3.13.148. The applicant's position as set out in its closing statement [\[REP6-121\]](#) is that *"Compensation is not a matter for consideration by the ExA in the overall balance when making its recommendation"*

3.13.149. In response to ExQ2 SE 1.1 which sought clarification from the applicant on the economic impact on agricultural operations from impacts including dust contamination, the applicant [\[REP4a-110\]](#) stated that no additional land outside of the Order limits would be impacted by dust when mitigation measures are in place. It went on to explain that it had already assessed the temporary loss of the area within the Order limits so there is no further impact from dust contamination.

The ExA's reasoning on dust contamination of crops during construction

3.13.150. It is clear that the applicant and T.H. Clements & Son Ltd agree upon the dust mitigation measures included in the final outline AQMP [\[REP6-058\]](#). This document is also agreed by BBC, ELDC and SHDC. The outline AQMP also commits for each final AQMP to be revised to reflect detailed construction data along with the consideration consider advancements in techniques and best practices that may emerge to refine mitigation for each section of the cable corridor. In this context, the ExA considers that the outline AQMP identifies and secures mitigation for dust as far as is practicable as required by sections 5.2 and 5.7 of NPS EN-1.

3.13.151. Nevertheless, T.H. Clements & Son Ltd considers that even with the mitigation provided in the outline AQMP, due to the sensitivity of its crops and contractual obligations, it has been necessary to secure alternative land at Gosberton Farm in advance of the proposed development coming forward to avoid dust impacts. As such, even if dust impacts identified in T.H. Clements & Son's modelling are realised, the impacts on crops subject to dust free contractual obligations would also be mitigated. Accordingly, in land use terms, the ExA considers that the dust

impacts of the proposed development as identified by both the applicant and T.H. Clements & Son would be suitably mitigated.

- 3.13.152. Turning to the respective assessments, the ExA is mindful that the applicant has undertaken a construction dust assessment in line with the IAQM guidance and that it applied the maximum level of risk (high) in undertaking the assessment. Furthermore, a similar approach, albeit applying a lower level of risk, has been adopted in the assessment of other linear projects such as the Sheringham and Dudgeon Extension DCO approved by the SoS. In this context, the ExA considers that the applicant's assessment accords with sections 5.2 and 5.7 of NPS EN-1.
- 3.13.153. The ExA acknowledges the findings of T.H. Clements & Son's quantitative assessment and that it is sufficiently concerned about dust contamination that it has already secured additional land to avoid impacts arising from the construction of proposed development. There is an associated cost to the business that would not otherwise have been incurred were it not for the proposed development and therefore an adverse impact in terms of socio-economic effects. However, the scope for compensation to address such impacts is not a matter for the consideration of land use, geology and ground conditions.

Soil heating from cabling

- 3.13.154. T.H. Clements & Son Ltd's RR [\[RR-067\]](#) identified concerns regarding the risk of electromagnetic radiation and heat from operational cables causing some crops to grow more quickly than others. T.H. Clements & Son Ltd argued that as it is not feasible to harvest crops from the same field at different times, some crops would be over-ripened and discarded, thus, impacting the marketable yield. This was supplemented in its WR [\[REP1-050\]](#) with further information in support of its case. This included reference to scientific research papers, all of which state that electromagnetic radiation can impact plant growth and photography of sections of the nearby Triton Knoll cable corridor. T.H. Clements & Son Ltd states that the photography is evidence of frost melt from the cabling as well as inconsistent crop growth along the alignment of the cable corridor.
- 3.13.155. Section 25.7.2.2 of Chapter 25 [\[REP6-022\]](#) of the applicant's ES provides an assessment of onshore ECC soil heating during the operation and maintenance phase of the proposed development and concludes that, with mitigation, there would be a negligible magnitude of impact which would result in minor (not significant) effects in EIA terms. As set out in paragraph 365 of Chapter 25 of the ES, this mitigation would come in the form of thermal bedding along the entire length of the onshore ECC and 400kV cable corridor. The applicant would undertake a cables study during the front end engineering design process which would utilise data from further ground investigation surveys. The surveys would be targeted to provide the required design information to establish the amount and type of thermal backfill required to maintain a negligible impact. This approach has been adopted on other similar projects according to the ES [\[REP6-022\]](#).
- 3.13.156. The applicant's response to ExQ1 LU 1.16 [\[REP2-051\]](#) seeks to address T.H. Clements & Son Ltd's supporting evidence for soil heating arising from underground cables. It provides reasoning as to why it considers the scientific research cited by T. H. Clements & Son Ltd is not comparable to the case in point. This includes Electromagnetic Radiation from Electronics Does Affect Plant Growth, Mahadevan A, Young G, (2020). Furthermore, the applicant highlighted other scientific studies that concluded negligible or no significant effects arising from underground cables on crops across a range of crop types and rooting depths. This included

consideration of mustard which the applicant notes is a brassica species, with brassicas being the most commonly farmed crop by T.H. Clements & Son Ltd.

- 3.13.157. The applicant's response to ExQ1 LU 1.16 [\[REP2-051\]](#) also refers to the photography provided by T.H. Clements & Son Ltd of the Triton Knoll cable corridor as anecdotal observations where the issues shown could be due to multiple reasons other than cable heating such as drainage. It states that it understands that the landowners and developers of the Triton Knoll project have been liaising on this issue. The applicant also clarifies that it assumes the cable arrangements employed on the Triton Knoll project to be similar to those for the proposed development but that there has been no acceptance of liability by the Triton Knoll developers that they are due to cable heating. The applicant's closing statement [\[REP6-121\]](#) also makes the point that the difference in colour shown in the photographs is not consistent along the cable route which suggests an isolated issue rather than cable heating which would present itself more consistently along the onshore ECC.
- 3.13.158. In turn, T.H. Clements & Son Ltd questioned [\[REP4-150\]](#) research cited by the applicant. It stated that the studies cited by the applicant tend to focus on "*combinable crops*" such as wheat and oats that can ripen at different rates but still be harvested at the same time across a whole field with a combine harvester. T.H. Clements & Son Ltd contested that this does not apply to vegetable crops and concluded that papers cited by the applicant do not provide any evidence that crop growth rates, and maturity dates for vegetable crops grown are not affected by underground cable heat emissions.
- 3.13.159. At the close of the examination, both parties [\[REP6-121\]](#) and [\[REP6-157\]](#) remain in disagreement. The ExA notes that T.H. Clements & Son Ltd states that it intends to assess the impact of cable heating on marketable yield of a vegetable crop being grown on rented land in due course to add weight to its argument. However, the outcome of this is not known to the ExA.

The ExA's reasoning on soil heating from cabling

- 3.13.160. The ExA is mindful of the conflicting evidence before it in the form of scientific papers referenced by both parties. In light of this conflicting evidence, it is unable to definitively conclude on the likelihood of soil heating from underground cabling impacting crop growth to the extent that it would adversely impact marketable yields as suggested by T.H. Clements & Son Ltd.
- 3.13.161. The ExA is not aware of the outcome of discussions, if any, between the developer of the Triton Knoll project and relevant landowners in relation to potential instances of soil heating, acceptance of liability or any subsequent action taken.
- 3.13.162. NPS EN-5 paragraph 2.9.58 indicates that significant impacts from electromagnetic fields (EMF) on crops are unlikely stating that "*there is little evidence that exposure of crops...to transmission line EMFs has any agriculturally significant consequences*". Nevertheless, the ExA is also conscious that the applicant's own assessment in Chapter 25 of the ES [\[REP6-022\]](#) identified "*minor*" effects arising from a negligible magnitude of impact. It did not conclude that there would not be any soil heating arising from underground cables. Indeed, paragraph 363 of Chapter 25 of the ES acknowledges that "*there is the potential for the soils adjacent to the cable to undergo 'soil heating' which could have an adverse impact on agricultural productivity*", albeit this risk is proposed to be mitigated.

- 3.13.163. However, in light of the conclusions in Chapter 25 of ES [\[REP6-022\]](#) of a minor effect, the ExA considers that soil heating will occur with minor adverse effects on agricultural productivity.

Effects on organic farming

- 3.13.164. Concerns were raised in the RR [\[RR-075\]](#) and WR [\[REP2-087\]](#) from Woodlands Farm (Kirton) Limited and Andrew Peter Dennis regarding the impacts on its organic farming business. Particular issues identified include damage and contamination to organic soils relating to the construction of the onshore ECC which is proposed to pass through farmland and the lack of appropriate mitigation and soil restoration. In response to ExQ1 LU 1.19 [\[REP2-051\]](#), the applicant confirmed the details of other organic farm interests within the Order limits.
- 3.13.165. In light of this, the applicant, Woodlands Farm (Kirton) Limited and Andrew Peter Dennis engaged during the course of the examination to seek resolution. The resultant outline Organic Land Protocol (OLP) [\[REP4-081\]](#) sets controls for the controls and management for certified organic land across the Order limits. By deadline 4a, and Woodlands Farm (Kirton) Limited and Andrew Peter Dennis [\[REP4a-134\]](#) confirmed that it was satisfied with the applicant's approach and withdrew its objection.
- 3.13.166. As confirmed in the applicant's closing statement, the outline OLP was also drafted in consultation with all of the organic farmers with landholdings in the Order limits, including Woodlands Farm (Kirton) Limited and Andrew Peter Dennis, and has been agreed by all parties.
- 3.13.167. R18(2)(k) of the dDCO [\[AS-042\]](#) secures the development of an OLP which must accord with the outline OLP prior to the commencement of onshore transmission works.

The ExA's reasoning on effects on organic farming

- 3.13.168. The matter has been agreed by all relevant parties and the ExA is satisfied that the outline OLP provides a suitable basis upon which to manage and mitigate impacts on organic soils. As such, the ExA is satisfied that the proposed development accords with relevant policy regarding impacts on soils, insofar as they relate to organic soils, including NPS EN-1 paragraph 5.11.13 and NPS EN-5 paragraph 2.9.25.

The applicant's consideration of impacts on open space and outdoor recreational land

- 3.13.169. A RR made on behalf of the Fosdyke playing field [\[RR-022\]](#) stated that the route for the onshore cable route passes through or near to the playing field. A subsequent response from Fosdyke playing field [\[REP2-090\]](#) expressed concern about drainage of the football pitch due to disruption in the adjoining field.
- 3.13.170. In response to the drainage concerns, the applicant responded [\[REP3-037\]](#) that with pre-construction drainage in place as set out in the outline CoCP and measures for surface water run off in the outline Surface Water Drainage Strategy [\[APP-273\]](#), impacts would be avoided. The applicant also highlighted [\[PD1-071\]](#) that the Order limits are more than 100m from the boundary of the playing fields at the nearest point.
- 3.13.171. In response to ExQ1 LU 1.20, the applicant confirmed [\[REP2-051\]](#) that references to "greenspace" in Chapter 25 of the ES [\[AS1-050\]](#) included open space as set out

in section 5.11 of the NPS EN-1 and that there is no such land within the Order limits.

- 3.13.172. At ExQ1 LU 1.21 [\[PD-013\]](#), the ExA sought comments from the applicant on the potential implications of its assessment on outdoor recreational land in Chapter 25 of the ES arising from the WR from Julie Ann Mason [\[REP1-051\]](#). The WR expresses concern regarding the potential for EMF to impact fishing lakes at Newfield Farm and associated site with planning consent for 62 caravan pitches.
- 3.13.173. The applicant responded [\[REP2-051\]](#) by stating that the WR did not have any implications for its assessment of outdoor recreational land in Chapter 25 of the ES which identified negligible effects.

The ExA's reasoning on the applicant's consideration of impacts on open space and outdoor recreational land

- 3.13.174. The ExA is satisfied that open space would not be impacted by the proposed development as it lies outside of the Order limits and potential impacts arising from drainage are effectively mitigated via the outline CoCP [\[REP6-056\]](#) and outline Surface Water Drainage Strategy [\[APP-273\]](#)
- 3.13.175. The ExA provides specific consideration of EMF impacts on Newfield Farm in section 3.20 of this Recommendation concluding that impacts have been adequately addressed by the applicant. As such, the ExA is also satisfied that the applicant's conclusions in Chapter 25 of the ES [\[REP6-022\]](#) in relation to outdoor recreation are robust and that any effects would be negligible.

Impacts on designated geological sites and geodiversity

- 3.13.176. NE's RR [\[RR-045\]](#) stated that the assessment of impacts on designated sites [\[APP-078\]](#) with geological features of interest had only been scoped in for the construction phase. NE sought further clarity on the absence of impacts during the operation and maintenance phase, during cable repair and during decommissioning phase so that this can be reviewed.
- 3.13.177. The applicant responded [\[PD1-071\]](#) that paragraphs 390 to 392 of ES Chapter 23 [\[APP-078\]](#) addressed operational impacts with negligible impacts identified. This included designated sites. For the decommissioning phase, the applicant considered that the risks to designated sites would be similar to those during construction with minor adverse effects that would not be significant in EIA terms.
- 3.13.178. In response to ExQ1 LU 1.23, NE [\[REP2-074\]](#) confirmed that it agreed with the applicant's feedback, that it had no further concerns and that activities during maintenance would be unlikely to cause impacts on geological sites. NE also confirmed in its response to this question that it was satisfied that its request for mitigation for areas of high sensitivity near to designated geological sites should be set out within the outline CoCP as secured by R18 of the dDCO had been met by the applicant.
- 3.13.179. NE's RR [\[RR-045\]](#) welcomed the applicant's refinement to the Order limits during the development of the project to avoid the Chapel Point to Wolla Bank Site SSSI at landfall which is notified for intertidal deposits. Whilst horizontal directional drilling (HDD) would not be employed directly underneath the SSSI, NE sought ground investigations at landfall given the sink holes and requirement for extra cable protection that occurred during the installation of the Triton Knoll offshore wind farm. NE's view was that lessons learnt from Triton Knoll must be considered and

preconstruction ground investigations secured via inclusion within the outline CoCP or Works Plans to avoid unforeseen direct or indirect impacts to Chapel Point to Wolla Bank SSSI.

- 3.13.180. NE's final Risk and Issue Log [\[REP6-153\]](#) confirms that whilst some of its concerns have been addressed by the applicant, it still considers that lessons learned from Triton Knoll should still be taken into account. In response to ExQ1 LU 1.24 [\[REP2-051\]](#) and in its response to NE's Risk and Issue Log [\[REP6-104\]](#), the applicant explained that it has employed an engineer who had previously worked on the construction of the Triton Knoll landfall and that lessons learned are embedded into the principles of construction of the proposed development. It has also undertaken ground investigation works to support detailed design but there was no need to update the outline CoCP as a result of the ground investigations since they had not changed its assumption regarding cable installation at landfall.
- 3.13.181. In ExQ1 LU 1.27, the ExA sought clarification from the applicant on which, if any, documents formed the Geodiversity Management Strategy as identified in paragraph 5.4.28 of NPS EN-1. The applicant explained [\[REP2-051\]](#) that NPS EN-1 sought such a strategy where appropriate. As no significant effects are identified in Chapter 23 of the ES [\[APP-078\]](#), and the outline CoCP [\[REP6-056\]](#) makes provision for mitigation, a specific strategy was not considered necessary by the applicant.

The ExA's reasoning on impacts on designated geological sites and geodiversity

- 3.13.182. Matters were broadly agreed at the close of the examination. NE's request for lessons learned from the Triton Knoll project to be considered remains. However, the ExA notes that the applicant has sought to address this point and that the applicant considers that lessons learned are embedded into the principles of construction of the proposed development. The outline CoCP [\[REP6-056\]](#) has not been updated by the applicant in response to this issue, but following ground investigation, it explains that this is not necessary as its assumptions are confirmed. The ExA considers that the applicant has adequately justified its approach in this regard.
- 3.13.183. The ExA is also satisfied that the applicant has suitably addressed all other matters regarding impacts on geological sites and justified the absence of a specific Geodiversity Management Strategy given the absence of significance effects and measures specified in the outline CoCP [\[REP6-056\]](#). Therefore, the ExA does not find conflict with paragraph 5.4.28 of NPS EN-1.

Impacts on minerals and waste

- 3.13.184. LCC confirmed that no minerals safeguarding areas or resources would be impacted by the proposed development [\[REP5-135\]](#). Similarly, LCC is in agreement with the applicant with regards to waste matters. In particular, the principles outlined in the outline Site Waste Management Plan [\[APP-274\]](#) are considered to be acceptable by LCC.

The ExA's reasoning on impacts on minerals and waste

- 3.13.185. The ExA concurs with LCC and it considers that impacts on minerals and waste have been suitably addressed. The management of all site waste would comply with the Site Waste Management Plan that would form part of the final CoCP that will be submitted for approval to LCC under R18(2)(f) of the dDCO [\[AS-042\]](#).

Conclusions

- 3.13.186. As detailed above, the ExA considers that the applicant has adequately identified effects on soils as required by NPS EN-1 paragraph 5.11.13 and NPS EN-5 paragraph 2.9.25.
- 3.13.187. In relation to the loss of BMV agricultural land, the ExA considers that the proposed development accords with relevant policy requirements including paragraph 5.11.12 of NPS EN-1 which states that applicants should seek to minimise impacts on BMV land and preferably use land in areas of poorer quality and paragraph 5.11.34 which requires the SoS to ensure that applicants do not site development on BMV land without justification. The SoS is also required to take account of the economic and other benefits of the land. These requirements are broadly echoed in the NPPF paragraph 187, 188 and footnote 65 and in East Lindsey Local Plan Core Strategy Policy 10. However, the ExA concludes that there would be unavoidable significant adverse effects both for the project alone and cumulatively relating to the loss of BMV agricultural land that weigh against the making of the Order. However, this must also be viewed in contrast with the substantial benefits of the proposed development in terms of renewable energy production and carbon savings and related policy and legal requirements, including those in the British Energy Security Strategy and Climate Change Act 2008.
- 3.13.188. The ExA is satisfied that the applicant has sufficiently justified the working width of the onshore ECC during the construction phase from a land use perspective. The flexibility provided for micro-siting will facilitate the applicant's ability to minimise effects via design and layout in keeping with NPS EN-1 paragraph 5.11.23.
- 3.13.189. In relation to soil handling and restoration, the ExA considers that the applicant's proposals in the outline SMP [\[REP6-060\]](#) and outline CoCP [\[REP6-056\]](#) accord with NPS EN-1 paragraphs 5.11.13, 5.11.14 and 5.11.23. The proposals also accord with paragraph 2.9.25 of NPS EN-5 aside from there being no firm commitment for land impacted by permanent infrastructure to be restored to its previous ALC grade as the applicant considers that the scope for this should be determined at the time of decommissioning.
- 3.13.190. With the additional information provided in its clarification note, the ExA considers that the applicant has adequately considered the potential for earth movement or subsidence caused by the increased risk of flooding from climate change as required in NPS EN-5.
- 3.13.191. With regards to dust contamination, the ExA considers that the outline AQMP [\[REP6-058\]](#) identifies and secures mitigation for dust as far as is practicable as required by sections 5.2 and 5.7 of NPS EN-1. The ExA also considers that the applicant's assessment of dust effects accords with sections 5.2 and 5.7 of NPS EN-1.
- 3.13.192. In light of the conclusions in Chapter 25 of ES [\[REP6-022\]](#) of a minor effect, the ExA considers that soil heating will occur with minor adverse effects on agricultural productivity.
- 3.13.193. The ExA considers that the revisions to the restrictive covenants as identified in the ExA's recommended changes to schedule 7 the rDCO in the DCO chapter of this Recommendation are necessary to ensure that a decision is made within 24 hours of a request to dig trenches to address waterlogging. The amended covenant would require the undertaker to make a decision on a request from T.H. Clements & Son

Ltd for trench digging within 24 hours. Approval could be withheld by the undertaker if the activity would cause damage to or make it materially more difficult to access or maintain the authorised development. The recommended amendment is as follows:

“... (c) prevent the carrying out of any excavations or works or agricultural practices to a depth greater than 0.75 metre from the surface of the land, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed, with consent for trench digging requests relating to waterlogging to be determined within 24 hours, if the proposed activity would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development, provided that (for the avoidance of doubt) —”

- 3.13.194. The ExA does not find conflict with NPS EN-1, including paragraph 5.11.9 and 5.11.10 regarding impacts on open space, sports or recreational land.
- 3.13.195. The ExA is also satisfied that the applicant has suitably addressed all other matters regarding impacts on geological sites and justified the absence of a specific Geodiversity Management Strategy given the absence of significance effects and with the measures specified in the outline CoCP [\[REP6-056\]](#). Therefore, the ExA does not find conflict with paragraph 5.4.28 of NPS EN-1.
- 3.13.196. Regarding land contamination, whilst this was not a significant issue for discussion during the examination, the ExA notes the position of the EA in its RR [\[RR-018\]](#) and SoCG [\[REP6-085\]](#) that it is satisfied that Chapter 23 of the ES and the accompanying Preliminary Land Quality Assessment are satisfactory and that R16 of the dDCO secures further assessment at the appropriate time, in consultation with the EA.
- 3.13.197. The ExA is satisfied that the proposed development complies with policies relating to the safeguarding and sterilisation of minerals, including NPS EN-1 paragraph 5.11.28. The ExA also considers that the management of site waste would comply with the Site Waste Management Plan that would form part of the final CoCP that would be submitted for approval to LCC under R18 (2) (f) of the dDCO [\[AS-042\]](#). The ExA concurs with LCC's position and does not find conflict with NPS EN-1 section 5.15 or the Lincolnshire Minerals and Waste Local Plan (2016).
- 3.13.198. Given the significant adverse effects identified for the permanent loss of BMV agricultural land for both the project alone (36.48ha) and cumulatively (2054.11ha across Lincolnshire), the ExA considers that overall, land use, geology and ground condition matters weigh moderately against the making of the Order. This conclusion is also informed by minor adverse effects on agricultural productivity related to soil heating and potential for residual adverse socio-economic effects related to dust impacts for T.H. Clements & Son Ltd. Notwithstanding this, in the event that such socio-economic effects were to be addressed between the two parties, this would not change of the ExA's overall conclusion of moderate weight against the making of the Order for the purposes of the [planning balance](#).

3.14. LANDSCAPE AND VISUAL EFFECTS

Introduction

- 3.14.1. This section considers the effects of the proposed development on onshore landscape character and views and the effectiveness of mitigation proposals. Good design is considered in Section 3.3 and Seascape and Visual Effects is considered in Section 3.12 of this Recommendation.
- 3.14.2. In its consideration of landscape and visual effects below, the Examining Authority (ExA) has had regard to:

- National Policy Statement for Energy EN-1 (NPS EN-1) as set out in Section 5.10
- National Policy Statement for Renewable Energy (NPS EN-3), as set out in Section 2.8
- National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) as set out in Section 2.9
- the National Planning Policy Framework (NPPF)
- Local Impact Reports (LIR)
- any matters prescribed in relation to the development
- any other important and relevant matters.

The applicant's case

- 3.14.3. The applicant's assessment of landscape and visual effects is set out in the Environmental Statement (ES) in Chapter 28 Landscape and Visual Impact Assessment (LVIA) [\[APP-083\]](#) and is supported by technical reports and appendices including:
- Outline Landscape and Ecological Management Strategy (OLEMS) [\[AS1-103\]](#)
 - Chapter 28 Landscape and Visual Impact Assessment Volume 2 Figures 1 to 15 [\[APP-122 to APP-136\]](#) as listed in Table 6.1 in the applicant's Guide to the Application [\[REP6-002\]](#).
- 3.14.4. A landscape management plan which accords with the OLEMS certified document would be secured under Requirement (R)10 of the draft Development Consent Order (dDCO).
- 3.14.5. The replacement of damaged or diseased trees or shrubs would be secured under R11 of the dDCO.

Scope and Methodology

- 3.14.6. The applicant's approach, as set out in its LVIA [\[APP-083\]](#) is based on the maximum design envelope (MDE) as set out in table 5.1. The applicant notes that if the proposed development's final extents are less than the MDE, then the impacts would not be any greater than what has been assessed and would likely be less or the same.
- 3.14.7. The applicant has identified and agreed the extent of the study areas with statutory consultees through the Expert Topic Group (ETG) as follows:
- Landfall, onshore export cable corridor (ECC) and 400 kilovolt (kv) cable corridor – a 1kilometre (km) buffer around these corridors.
 - Onshore substation (OnSS) – a 5km buffer around the maximum footprint of the OnSS.

- 3.14.8. The LVIA study area lies within the Lincolnshire Coast and Marshes and the Fens National Character Areas (NCAs). Figure 28.10 [\[APP-123\]](#) shows landscape designations and indicates that there are no national landscape designations within the LVIA study area.
- 3.14.9. The applicant identifies [\[APP-123\]](#) the principal visual receptors found within the LVIA study area as roads, railways, rural properties, settlements and recreational routes and these are mapped in figure 28.11. In addition, figure 28.12 shows the Screened Zone of Theoretical Visibility (ZTV) with existing screening [\[APP-123\]](#) which shows areas of higher to lower visibility based on the amount of OnSS visible using the maximum OnSS 3D envelope.
- 3.14.10. Ten representative viewpoints (VP) for the OnSS are set out in Table 4.2 of ES Chapter 28 [\[APP-083\]](#) and mapped in Figure 28.16 [\[APP-124\]](#). Visualisations for the OnSS are provided in Figures 28.17 to 28.27 as listed in Table 6.1 in the applicant's Guide to the Application [\[REP6-002\]](#).
- 3.14.11. The assessments consider both the magnitude of impact and the significance of effect on landscape character, viewpoint analysis and principal visual receptors. The LVIA assessment of effects on visual amenity is considered firstly, in respect of the landfall, onshore ECC and 400kv cable corridor and secondly, in respect of the OnSS.
- 3.14.12. Cumulative developments relevant to the LVIA are set out in Table 4.3 of [\[APP-083\]](#).

The applicant's assessment of effects and its proposed mitigation

- 3.14.13. Proposed embedded mitigation specific to LVIA is set out in section 5.3 of [\[APP-083\]](#) and includes:
- siting and design of the landfall, onshore ECC, 400kv cable corridor, construction compound areas and OnSS
 - restrictions on working areas and measures identified in the Outline Code of Construction Practice (CoCP) and OLEMS which seek to stipulate measures to avoid, reduce or offset environmental effects of the construction works, including those related to landscape elements, landscape character and visual amenity
 - an indicative mitigation planting plan for the OnSS including shelter belts of woodland, hedgerows and areas of grassland as shown on figure 28.15 [\[APP-124\]](#) to comprise faster growing 'nurse' species (to reach approximately 6.8 to 8.3 metres (m) in height after 15 years) and slower growing 'core' species
 - use of trenchless techniques for the onshore ECC and 400kv cable corridor at approximately 216 locations to avoid sensitive landscape features such as trees, woodlands and hedgerows
 - reinstatement of removed sections of hedgerows, or suitable replacement of hedgerows provided for displaced or severed sections where practicable
 - restoration of all temporary works and construction areas in relation to re-establishment of ground cover
 - protection of all retained trees during the construction phase where practicable
 - footpaths or cycleways that are temporarily disrupted by the ECC, 400kv cable corridor or landfall would be temporarily diverted and then reinstated
- 3.14.14. A summary of landscape and visual effects is provided in Table 12.1 of [\[APP-083\]](#).

Physical landscape

- 3.14.15. Section 7 of ES Chapter 28 [\[APP-083\]](#) sets out an impact assessment for the physical landscape which includes coastal land, agricultural land, trees and hedgerows. The applicant notes in paragraph 159 that the *“combination of the baseline characteristics of the rural landscape, the relatively small scale of the construction works and the sensitive routing of the onshore ECC and 400kv cable corridor means that there will be very few changes to the physical elements of the landscape.”*
- 3.14.16. The applicant considers that there would be no significant visual and landscape effects on the coastal land as a result of the landfall and there would be no significant visual and landscape effects on the agricultural land or the hedgerows as a result of the onshore ECC or 400kv cable corridor. Where hedgerows are removed during construction, there would be a medium-term landscape effect as these would be replaced post construction and would reach their original height within 3 to 5 years.
- 3.14.17. The applicant states that the majority of trees and woodland would remain unaffected by the proposed development. However, they consider that in the very few instances where tree removals may be required during the construction phase, the effect would be significant, at a major-moderate level, and long term (albeit localised in extents), owing to the 15-to-20-year period it would take for replacement trees to reach semi-maturity.

Landscape character

- 3.14.18. As there are no landscape designations within the LVIA study area, the applicant's assessment focuses on the effects on the landscape character areas.
- 3.14.19. The applicant considers in the LVIA paragraph 207 [\[APP-083\]](#) that *“the construction of the proposed landfall, onshore ECC and 400kv cable corridor will not become a prevailing or defining element or characteristic within the context of the existing landscape character and, therefore, does not have potential to give rise to significant effects and is not assessed in the LVIA.”* Furthermore, the applicant considers there is no potential for effects during the operational phase of these elements, as the infrastructure would be mostly buried underground and therefore not visible.
- 3.14.20. For the OnSS, in the absence of any county or district level landscape character assessment, the applicant's assessment is based on Natural England's National Character Area (NCA) Profiles.
- 3.14.21. The applicant states that the OnSS study area is typical of the Fens NCA, characterised by flat and low-lying arable farmland, following the geometric pattern of the drainage ditches and channelised water courses, with very limited woodland and hedgerow cover. The main features in and around the OnSS are the busy A16 to the immediate west and the overhead transmission line that crosses this area from the northwest to the southeast.
- 3.14.22. The applicant's assessment has divided the OnSS study area into two Local Landscape Character Areas (LLCA) to allow a more detailed assessment:
- Surfleet and Gosberton LLCA
 - Weston Marsh LLCA

- 3.14.23. The assessment of effects upon these LLCAs is set out in LVIA sections 7.2.4 and 7.2.5. The applicant concludes for the Surfleet and Gosberton LLCA that there would be localised effects that would be major or moderate-major and significant to a distance of approximately:
- 1.3km to the north and north-west
 - 1.4km to the west
 - 1.6km to the north-east and east
 - 1.4km to the southeast
 - 1.6km to the south
 - 0.8km to the south-west
- 3.14.24. The effects beyond these extents would either be moderate, moderate-minor or minor and not significant or where there would be no visibility and no effect. The effects would be adverse, short term in respect of the construction phase and long term in respect of the operational phase, and reversible.
- 3.14.25. The applicant considers that the significant adverse effect would gradually reduce to a not significant effect at a moderate-minor or minor level after an approximate 15-year period during which time mitigation planting would grow to create an effective screen between the OnSS and the surrounding local landscape.
- 3.14.26. The applicant concludes that the overall effect of the construction and operational phases of the OnSS on the Western Marsh LLCA would be not significant at a moderate-minor or minor level. The applicant considers that this relates to the limited extent to which the OnSS would be visible across this LLCA.

Visual amenity

- 3.14.27. The applicant's assessment of effects during construction of landfall, onshore ECC and 400kv cable corridor is set out in ES Chapter 28 table 7.1 [\[APP-083\]](#). This identifies significant effects during construction for the following receptors:

Major significant effects:

- Residents on Croft Bank. The effect on Halfway House to the immediate east of the primary temporary construction compound (TCC) would be major owing to its close proximity to the TCC, its orientation towards the TCC and the limited enclosure from the roadside hedgerow.

Major-moderate significant effects:

- Walkers on public rights of way (PRoWs) along the northern, southern and western boundaries of the landfall primary TCC
- Walkers on the England Coast Path 800m section between Wolla Bank car park and Anderby Creek
- Residents at Bleak House Farm from where there would be visibility of the TCC and cable installation compound (CIC) in the adjacent landscape to the south
- Residents in Fosdyke Bridge covering properties that lie between the A17 and the Five Towns Drain. Despite the use of horizontal directional drilling (HDD) between these properties, visibility of the TCCs and CICs in the adjacent landscape to the west and east would have a significant effect

Moderate significant effects for road users on:

- Roman Bank
- A52 South End
- Marsh Lane
- A158
- A52 Croft Bank
- Fodder Dike Bank
- Double Bank
- Ings Road
- A52 near Haltoft End
- Cut End Road
- Woad Lane
- Wyberton Road 70m
- Marsh Road (Fosdyke Bridge to Surfleet Marsh and Surfleet Marsh to Weston Marsh)

Moderate significant effects for walkers and horse riders on:

- Macmillan Way - 1.6km length from where the Risegate Eau joins the River Welland to Fosdyke Bridge
- Macmillan Way – 140m length from Surfleet Marsh to Weston Marsh

- 3.14.28. For all of the above significant effects, the applicant notes in ES Chapter 28 table 7.1 [\[APP-083\]](#) that the effect would be adverse, short term over the 42-month construction period and reversible. The applicant states that the land would be reinstated as arable farmland post construction reducing the significance of the effects to not significant.
- 3.14.29. The applicant's assessment of effects of the OnSS during the construction and operational phases is set out in section 7.3.3 of ES Chapter 28 [\[APP-083\]](#).
- 3.14.30. The OnSS is located at Surfleet Marsh and this is shown, along with the indicative layout for the mitigation planting on figure 28.15 [\[APP-124\]](#). The applicant's assessment considers a MDE based on the footprint of the air insulated switchgear (AIS) option and the height of the gas insulated switchgear (GIS) option and is illustrated in the photomontages in figures 28.17 [\[APP-125\]](#) to [APP-136](#) as a dashed line.
- 3.14.31. ES Chapter 28 table 7.2 [\[APP-083\]](#) sets out the viewpoint visualisations figure references for the 11 viewpoints.
- 3.14.32. The applicant identifies significant effects during construction and operational phases for the OnSS in section 7.3.3 of ES Chapter 28 as [\[APP-083\]](#) for the following VPs:
- VP1 Marsh Lane near Manor House for residents and road users
 - VP2 A16 near Marsh Lane junction for residents and road users
 - VP3 A16 near Gosberton Bank junction for residents and road users
 - VP4 Macmillan Way near Ship Inn for walkers, residents and road users
 - VP5 Macmillan Way near Welland House Farm for walkers, residents and road users
 - VP8 Cook's Road Gosberton Marsh for walkers, residents and road users

- 3.14.33. The applicant recognises in ES Chapter 28 section 7.4 [\[APP-083\]](#) that the OnSS is the component of the onshore infrastructure with the greatest potential to give rise to significant visual effects, owing to its large scale and modern appearance which the applicant states would be at variance with the predominantly rural character of the receiving landscape. The applicant considers that the proposed embedded mitigation planting has been designed to create an effective screen around the OnSS and *“will remove all significant effects on surrounding visual receptors within the first 15 years of operation.”*
- 3.14.34. Section 8 of the LVIA sets out the applicant’s consideration of the decommissioning of the onshore elements of the project. This considers that the effects of decommissioning, would be no worse than the effects of construction for the onshore ECC, 400kv cable corridor and the OnSS. However, the applicant states that the difference at the decommissioning phase would be that mitigation planting would have matured over the operational life of the onshore elements of the proposed development and would therefore screen the decommissioning works from many of the surrounding landscape and visual receptors.

Cumulative impact assessment

- 3.14.35. ES Chapter 28 section 9 [\[APP-083\]](#) sets out a cumulative impact assessment for LVIA. Cumulative developments are shown on figure 28.13 [\[APP-124\]](#). This shows that three cumulative developments fall within the 5km study area of the OnSS, one small scale residential development and two large scale developments. The applicant scoped out the residential development as set out in paragraph 409 of ES Chapter 28, for reasons including *“the notable separation distance from the OnSS (3.7km), the very limited potential for inter-visibility of the two developments and the very limited visibility of the residential development which limits its influence on the cumulative situation.”*
- 3.14.36. The applicant has included the National Grid Substation (NGSS) at Weston Marsh in the cumulative assessment, despite being at pre-application stage owing to its proximity, its large scale and the likelihood that it would give rise to significant cumulative effects. The other large-scale development considered is the application stage plant-based protein extraction facility and anaerobic digestion plant (ADP) located on land north and east of Surfleet Bank. The applicant’s preliminary assessment of cumulative effects for the OnSS are presented in Table 9.2 [\[APP-083\]](#).
- 3.14.37. ES Chapter 28 section 9.3 describes the cumulative assessment for the OnSS and identifies cumulative effects that would be significant for the following receptors:
- Surfleet and Gosberton Marsh LLCA
 - VP1 Marsh Lane near Manor House
 - VP2 A16 near Marsh Lane Junction
 - VP4 Macmillan Way at Surfleet Bank
 - VP5 Macmillan Way near Welland House Farm
- 3.14.38. The applicant states in paragraph 508 of [\[APP-083\]](#) that all of the above significant cumulative effects would be reduced to not significant or no cumulative effect in the 15-year period during which mitigation planting would grow to effectively screen the OnSS.
- 3.14.39. The applicant’s preliminary assessment of cumulative developments that have potential to interact with the onshore ECC and 400kv cable corridor and give rise to

significant cumulative effects is set out in table 9.1 [APP-083]. Whilst the applicant considers that there would be no cumulative effects on landscape character, it states in paragraph 449 that the cumulative effect to arise in conjunction with the NGSS at Weston Marsh would be significant at a major-moderate level for residents and at a moderate level for road-users. The applicant concludes that the effect would be adverse, short term (during construction) and reversible.

Issues considered during the examination

3.14.40. Based on the comments raised by interested parties (IPs) and the ExA's review of the application documents, the key issues considered during the examination were:

- construction phase mitigation for the onshore ECC and 400kv cable corridor
- replacement planting of damaged or diseased trees or shrubs and landscape mitigation for the OnSS

Construction phase mitigation for the onshore ECC and 400kv cable corridor

3.14.41. ES Chapter 28 [APP-083] identifies significant effects on residents of Croft Bank, Bleak House Farm and Fosdyke Bridge during the construction phase and significant effects for road users, walkers and horse riders. The Examining Authority's First Written Questions (ExQ1) [PD-013] stated that it would appear from section 5.4 of ES Chapter 28 [APP-083] *"that construction phase mitigation is limited and relies upon sensitive siting and that there are no specific intentions to provide landscape mitigation, including for the TCCs and CICs."* ExQ1 Q1LV1.1 [PD-013] asked the applicant to signpost where specific mitigation would take place to reduce the visual impression of the compound within the landscape. Furthermore, it asked the applicant to justify why it would be appropriate to have such significant construction features in the landscape without dedicated visual mitigation, given that they could well be in place for 48 months.

3.14.42. Lincolnshire County Council's (LCC) response to ExQ1 LV1.1 [REP2-059] stated that *"the duration of the construction period would amplify the effects as the compounds will be relevant for a significant period of time."* It considered that the growth timespan of any mitigation planting would not depress the effects significantly due to the 15-year period for mitigation planting to become effective. It suggested that *"alternative mitigation measures could be used in combination with planting, for example earth bunding."*

3.14.43. The applicant's response to ExQ1 LV1.1 [REP2-051] stated that there would be a number of refinements that would be made post consent that would help reduce the magnitude of change associated with the TCCs and CICs, including *"There will be the opportunity to refine the siting of the TCCs and CICs within the defined order limits, especially if the required land take is reduced and there is an opportunity to increase separation distances from properties or PRow and/ or use existing vegetation as a full or partial screen."*

3.14.44. Furthermore, the applicant responded [REP2-051] that it intends to reduce the visual impression of the construction compounds, with final detailing to be addressed at the detailed design stage. For Croft Bank, Bleak House Farm and Fosdyke Bridge, the applicant states that this could include *"the strategic placement of a physical barrier, such as a soil bund (sealed and seeded) or solid hoarding."* The applicant went on to outline [REP2-051] that *"the layout of infrastructure within the construction compounds can be arranged such that larger components are sited further away or behind existing screening to moderate the overall visual effect."*

- 3.14.45. The applicant updated paragraph 46 of the Outline CoCP [APP-268] at Deadline 3 [REP3-021] to include such mitigation measures to be “*agreed by landowners, residents, LCC and the local planning authority (LPA)*”.
- 3.14.46. LCC in its response to the Examining Authority’s Second Written Questions (ExQ2) [REP4-133] recognised that “*temporary mitigation in landscape terms is difficult to implement, and often provides limited reduction in visual effects, particularly from receptors in residential properties who are typically judged to be high sensitivity. However, the mitigation detailed in paragraph 46 will go some way in mitigating adverse effects.*”
- 3.14.47. At the close of the examination a final Statement of Common Ground (SoCG) was signed by the applicant and LCC [REP5-135] confirming agreement with the applicant’s approach to landscape and visual matters. The Outline CoCP submitted at deadline 6 includes the proposed mitigation at paragraph 45 [REP6-056].

The ExA’s reasoning on construction phase mitigation for the onshore ECC and 400kv cable corridor

- 3.14.48. The ExA agrees with LCC that alternative mitigation to traditional planting would be the most appropriate construction phase mitigation for the onshore ECC and 400kv cable corridor. The ExA is satisfied that the Outline CoCP [REP6-056] sets out appropriate measures to refine the layout of each TCC as part of the detailed design stage. These measures would aim to increase the separation distance from visual receptors and, where agreed by landowners, residents, LCC and the Local Planning Authority (LPA), seeded soil bunds or solid fencing would be used to create temporary screens for residents overlooking a TCC.
- 3.14.49. The ExA agrees with LCC that the temporary mitigation set out in paragraph 45 of the Outline CoCP [REP6-056], would provide some limited reduction in visual effects. Final dDCO R18 [AS-042] secures a CoCP for each stage which accords with the Outline CoCP and which must be approved by LCC.

Replacement planting of damaged or diseased trees or shrubs and landscape mitigation for the OnSS

- 3.14.50. Requirement 11 of the dDCO as submitted [AS1-024] required that trees or shrubs that die or are seriously damaged or diseased within 5 years of planting must be replaced. ExQ1 [PD-013] questioned whether the 5 years proposed was sufficient. The applicant’s response to ExQ1 [REP2-051] considered the 5-year period to be appropriate as “*beyond five years the potential for plant failures to arise reduces notably. Moreover, five years marks the point at which thinning of planting will be undertaken to ensure the healthiest specimens are given the space required to establish more strongly.*”
- 3.14.51. LCC in its LIR [REP1-053] consider that a longer maintenance period would be required, possibly for the lifetime of the project. This matter was discussed at issue specific hearing (ISH) 3 [EV7-001] and ISH8 [EV13-001] and formed part of ongoing discussions between the applicant and LCC. LCC agreed with the applicant that a 5-year period for replacements was appropriate for planting, other than for planting which forms part of Work No.23 which would be relied upon as the principal landscape mitigation measure for the OnSS and would require maintenance for the lifetime of the project [REP4a-135].
- 3.14.52. The applicant’s Comments on Deadline 5 Submissions [REP6-110] confirmed that the applicant had updated the OLEMS at deadline 6 [REP6-070] to address

concerns raised by LCC. The applicant stated [\[REP6-110\]](#) *“The updated text states that in the unlikely event of external factors causing losses to the OnSS planting (as covered by Works No.23 Landscaping works in the DCO) during the lifetime of the Project, such that the purpose of screening the OnSS is no longer achieved as a result of gaps in the planting, replacement planting will be undertaken to infill gaps that may arise. This approach will ensure commitments are fulfilled in respect of providing screening of the onshore substation and enhancing biodiversity.”*

- 3.14.53. LCC confirmed in its post hearing submissions [\[REP6-124\]](#) that it considers the amended wording of section 2.5.5 of the OLEMS to “provide an appropriate mechanism to ensure that an appropriate level of screening will exist for the duration of the OnSS” and that on the basis that the applicant includes a specific reference to Works No.23 that it considers the issue to be resolved.
- 3.14.54. At the close of the examination the applicant submitted a signed Section 106 agreement with LCC [\[AS-040\]](#). This includes under schedule 1 the establishment of a Landscape and Ecology Enhancement Fund to secure landscape enhancement in connection with the proposed development. Additionally, under Schedule 2 it would secure the appointment of an environmental compliance officer to monitor the delivery and implementation of landscaping and ecological enhancement measures.
- 3.14.55. LCC’s submission at the close of the examination [\[REP6-158\]](#) states that while LCC acknowledge the establishing planting as part of the mitigation proposals of the scheme would add a positive element to the landscape, it considers that the planting is to mitigate the identified adverse effects, not to enhance the baseline landscape or improve the current visual amenity of the area.
- 3.14.56. In addition, LCC [\[REP6-158\]](#) question whether the secured mitigation balances out the landscape change and conclude that the urbanising element of the large-scale substation on rural agricultural land that is open in character is a definite and adverse change to the baseline. LCC accept that planting can be an effective way to screen and integrate development proposals and would reduce the identified adverse effects once established (15 years).
- 3.14.57. However, LCC maintains that this planting needs to be carried out in a way that is sensitive to the existing landscape character. Alternatively, it should meet any aims of a published character assessment to improve or introduce new planting to an area. The local area currently has an open character, and LCC remain concerned that planting simply to screen built elements could have detrimental impacts and screen currently open views with excessive established vegetation, adversely affecting the baseline.

The ExA’s reasoning on the replacement planting of damaged or diseased trees or shrubs and landscape mitigation for the OnSS

- 3.14.58. The ExA is satisfied that the submission of a landscape management plan (LMP) and associated work programme to LCC, which needs to accord with the OLEMS [\[REP6-070\]](#) would set out appropriate measures to ensure that the landscape mitigation for the OnSS (as covered by Work No.23) is maintained for the lifetime of the proposed development. Furthermore, it would enable the applicant to agree the final design of the mitigation planting for the OnSS with LCC. The ExA considers that the approval of the LMP is appropriately secured through final dDCO requirement 10 [\[AS-042\]](#).

Conclusions

- 3.14.59. The ExA agrees with LCC [\[REP5-135\]](#) that an acceptable assessment methodology for the proposed development has been followed in line with NPS EN-1 paragraphs 5.10.16 and 5.10.17.
- 3.14.60. The ExA recognises that opportunities for effective landscape mitigation are limited in the context of the construction phase for the onshore ECC and 400kv cable corridor. Furthermore, the ExA considers that the OLEMS sets out appropriate measures to ensure the lifetime maintenance of the planting that is proposed as landscape mitigation for the OnSS. In this regard, the ExA is satisfied that the proposed development has had regard to the siting, operational and other relevant constraints with the aim of providing reasonable mitigation and minimising harm to the landscape in line with NPS EN-1 paragraph 5.10.6.
- 3.14.61. Paragraph 5.10.13 of NPS EN-1 recognises that all proposed energy infrastructure is likely to have visual effects for many visual receptors around proposed sites. Paragraph 5.10.14 of NPS EN-1 notes that visual effects upon sensitive visual receptors such as local residents and visitors to the local area may outweigh the benefits of a project. The planning balance is considered in Chapter 8 of this Recommendation.
- 3.14.62. The ExA agrees with the applicant that a number of significant landscape and visual effects would result from the proposed development, including:
- significant effects to residents, road users, walkers and horse riders during the construction phase for the onshore ECC and 400kv cable corridor, over the construction period which would be reversible upon reinstatement as arable farmland post-construction, reducing the significance of effect to not significant
 - localised significant effects and significant cumulative effects on the Surfleet and Gosberton LLCA during the construction and operational phases of the OnSS
 - significant effects during the construction and operational phases of the OnSS on VP1, VP2, VP3, VP4, VP5 and VP8 for residents, road users and walkers
 - significant cumulative effects for VP1, VP2, VP4 and VP5 during the construction and operational phases of the OnSS
- 3.14.63. The ExA agrees with the applicant and LCC that the OnSS is the component of onshore infrastructure with the greatest potential to give rise to significant visual effects, owing to its large scale and modern appearance which would be at variance with the predominantly rural character of the receiving landscape. The ExA considers that the OnSS would stand out as a dominant and incongruous industrial feature in the open rural landscape.
- 3.14.64. The applicant considers in Section 7.4 of the LVIA [\[APP-083\]](#) that the proposed embedded mitigation planting for the OnSS has been designed to create an effective screen around the OnSS and that the planting would remove all significant effects on surrounding visual receptors within the first 15 years of operation.
- 3.14.65. NPS EN-1 paragraph 5.10.5 acknowledges that virtually all nationally significant energy infrastructure projects would have adverse effects on the landscape but considers that there may also be beneficial landscape character impacts arising from proposed mitigation.
- 3.14.66. The ExA agrees with the applicant that the mitigation planting would provide a screen around the OnSS. However, as the final design for both the OnSS and the

landscape mitigation is not fixed at this stage, the extent to which the OnSS would be screened by planting remains unclear.

- 3.14.67. Furthermore, the ExA agrees with LCC [[REP5-135](#)] that the volume of established planting likely to be required to effectively screen the OnSS has the potential to introduce a notable and long-term change to the existing open arable character of the local landscape.
- 3.14.68. The ExA considers that the proposed dense tree planting could stand out on its own as an incongruous and prominent feature in the otherwise sparsely enclosed landscape. For this reason, the ExA does not agree that the proposed mitigation planting would remove all significant effects on surrounding visual receptors and the ExA does not consider that the mitigation planting would bring beneficial landscape character impacts in line with NPS EN-1 paragraph 5.10.5.
- 3.14.69. The ExA agrees with LCC [[REP6-158](#)] that the careful and well considered detailed design of both the appearance of the OnSS and associated mitigation planting is key to achieving the reduction in significant residual effects that have been assessed as likely to occur in the applicant's ES Chapter 28.
- 3.14.70. Overall, taking all matters into account the ExA ascribes moderate negative weight to the landscape and visual matters, both alone and cumulatively, against the order being made within the overall [planning balance](#).

3.15. ONSHORE ECOLOGY AND ORNITHOLOGY

Introduction

3.15.1. This section considers the effects of the proposed development located landward of Mean Low Water Springs (MLWS) in relation to onshore ecology and ornithology at the environmental impact assessment (EIA) level. The impacts on any ecological or ornithological species that are qualifying features of any European sites are considered in more detail in the Habitats Regulations Assessment (HRA) chapter of this Recommendation.

3.15.2. In relation to onshore ecology and ornithology, the Examining Authority (ExA) has had regard to:

- the requirements of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) as set out in sections 4.6 and 5.4
- the requirements of National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) as set out in sections 2.5 and 2.8
- National Policy Statement for Electricity Networks Infrastructure NPS EN-5 section 2.5
- Conservation of Habitats and Species Regulations 2017
- Wildlife and Countryside Act 1981
- Environment Act 2021
- Protection of Badgers Act 1992
- Hedgerow Regulations 1997
- Management of Hedgerows (England) Regulations 2024
- Water Environment (Water Framework Directive (England and Wales) Regulations 2017 (as amended)
- National Parks and Access to the Countryside Act 1949
- Natural Environment and Rural Communities (NERC) Act 2006
- National Planning Policy Framework (NPPF) section 15
- Local Impact Reports (LIRs) submitted by Lincolnshire County Council (LCC) and a joint LIR from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC)
- Local development plan policies set out in the East Lindsey Local Plan Core Strategy 2018, strategic policies 24 and 25 and South East Lincolnshire Local Plan 2019, policy 28
- Lincolnshire Biodiversity Action Plan: 2011 – 2020 3rd Edition 2011
- Greater Lincolnshire Nature Partnership Nature Strategy 2020 – developing a Nature Recovery Strategy
- any matters prescribed in relation to the proposed development
- any other important and relevant matters.

The applicant's case

3.15.3. Volume 1 of Environmental Statement (ES) Chapter 21 Onshore Ecology [[APP-076](#)] provides an assessment of effects of the proposed development on onshore ecology, excluding onshore ornithology. Volume 1 of ES Chapter 22 Onshore Ornithology [[APP-077](#)] assesses the effects on onshore ornithology.

3.15.4. Both chapters provide an overview of the existing and future baseline environment, a summary of the assumptions and limitations of the assessment, an assessment of potential environmental effects of the proposed development in isolation and cumulatively during the construction, operation and maintenance and decommissioning phase and a summary of embedded mitigation and additional mitigation.

- 3.15.5. ES Chapter 21 Volume 2 Figures part 1 [\[APP-111\]](#) and Part 2 [\[APP-112\]](#) provide supporting plans for habitats and impact assessment plans for great crested newts (GCN) reptiles, bat tree roosts, otter and water vole.
- 3.15.6. ES Chapter 22 Volume 2 Figures [\[APP-113\]](#) provides plans in support of the ornithological assessment, including, potential severed land compensation for skylark and yellow wagtail, the location of the Frampton Marsh Royal Society for the Protection of Birds (RSPB) Nature Reserve, the Greater Frampton Vision boundary, seasonally affected working areas and compensation sites considered for the Boston Alternative Energy Fuel project.
- 3.15.7. ES Chapter 21 Volume 3 provides a series of supporting studies and surveys, namely:
- Appendix 21.1 Onshore Ecology Desk Based Assessment [\[APP-189\]](#)
 - Appendix 21.2 UK Habitat Survey Report [\[APP-190\]](#)
 - Appendix 21.3 Important Hedgerows Survey [\[APP-191\]](#)
 - Appendix 21.4 Preliminary Roost Surveys for Bats Part 1 Report and Figures [\[APP-192\]](#) and Part 2 Figures [\[APP-193\]](#)
 - Appendix 21.5 Confidential Badger Desk Study and Field Survey [\[APP-194\]](#)
 - Appendix 21.6 Riparian Mammal Surveys [\[APP-195\]](#)
 - Appendix 21.7 Great Crested Newt Surveys [\[APP-196\]](#)
 - Appendix 21.8 Reptile Habitat Suitability Study [\[APP-197\]](#)
 - Appendix 21.9 Invertebrates Study [\[APP-198\]](#)
 - Appendix 21.10 Fish Habitat Study [\[APP-199\]](#)
- 3.15.8. ES Chapter 22 Volume 3 provides a series of supporting studies and surveys, as follows:
- Appendix 22.1: Ornithology Desk Study [\[APP-200\]](#)
 - Appendix 22.2: Confidential Ornithology Desk Study [\[APP-201\]](#)
 - Appendix 22.3: Winter Bird Survey 2022-2023 Part 1 [\[APP-202\]](#), Part 2 [\[APP-306\]](#), Part 3 [\[APP-203\]](#), Part 4 [\[APP-204\]](#)
 - Appendix 22.4: Breeding Bird Survey 2023 [\[APP-205\]](#)
 - Appendix 22.5: Confidential Breeding Bird Survey Records 2023 [\[APP-206\]](#)
 - Appendix 22.6: Bird Species List [\[APP-207\]](#)
 - Appendix 22.7: Winter Bird Survey 2023-2024 Provisional Summary [\[APP-208\]](#)
- 3.15.9. An outline Landscape and Ecological Management Strategy (OLEMS) [\[APP-284\]](#) sets out the key landscape and ecology principles to inform the Landscape Management Plan (LMP) and Ecological Management Plan (EMP) which are required to be submitted to the relevant planning authority in consultation with the relevant statutory nature conservation body for approval prior to construction in accordance with requirements (R) 10 and 12 of the draft Development Consent Order (dDCO) [\[APP-303\]](#).
- 3.15.10. Section 3 of the OLEMS [\[APP-284\]](#) sets out the ecological conservation and mitigation strategy for the proposed development landward of MLWS for each phase of the proposed development. It includes:
- the role of an Ecological Clerk of Works (ECoW) for the pre-commencement and construction phase to oversee species specific mitigation, method statements, plans and compliance with the EMP
 - biosecurity measures to prevent the spread of invasive non-native species (INNS) and disease

- details of pre-commencement surveys to be undertaken
 - details for the protection of retained habitats including Habitats of Principal Importance and Lincolnshire Biodiversity Action Plan Priority Habitats, rivers, wetlands and trees
 - mitigation strategies for individual plant and animal species
 - outline details for the reinstatement, engagement and creation of habitats following construction
 - outline details for monitoring and management during construction and during the operation of the proposed development
- 3.15.11. R12 of the dDCO [\[APP-303\]](#) states that the EMP would reflect survey results and mitigation measures identified in the ES and include the following:
- a protected species mitigation management plan
 - a nesting birds management plan
 - a non-native invasive species management plan
- 3.15.12. A Biodiversity Net Gain Report (BNG) Project Principles and Approach Report [\[APP-302\]](#) references the Defra's Statutory Biodiversity Metric published in February 2024. It outlines the broad principles for the consideration of BNG for the proposed development, highlighting that Nationally Significant Infrastructure Projects (NSIPs) are not yet subject to legal requirements to deliver 10% BNG. As such, it seeks opportunities to deliver BNG. It states that detailed results from the statutory metric would be provided at the detailed design stage in a Biodiversity Gain Final Design Report. However, preliminary BNG results are provided for the onshore export cable corridor (ECC), onshore substation (OnSS) and 400kV cable corridor which indicate a net loss across all unit types.
- 3.15.13. In August 2024, prior to the preliminary meeting (PM), the applicant submitted further information regarding BNG. A Biodiversity Net Gain Assessment Report [\[AS-014\]](#) with updates results identified a net gain for linear units (14.4%) and riparian units (0.08%) but a net loss of 0.8% for habitat units. The report is supported with additional figures, namely:
- Figure 1 BNG Assessment Boundary [\[AS-015\]](#)
 - Figure 2 Pre-development (Baseline) Habitats [\[AS-016\]](#)
 - Figure 3 Habitat Retention and Loss Status [\[AS-011\]](#)
 - Figure 4 Post Development Habitats [\[AS-017\]](#)
 - Figure 5 OnSS Indicative Layout and Mitigation (BNG) [\[AS-018\]](#)
 - Figure 6 Baseline Habitat Units [\[AS-019\]](#)
 - Figure 7 Post Development Habitat Units [\[AS-020\]](#)
- 3.15.14. In response to advice issued by the ExA under section (s) 51 of the Planning Act 2008, the applicant submitted a revised Volume 2 Part 1 of Chapter 21 of the ES [\[AS1-057\]](#) to address labelling errors, minor discrepancies and omissions in July 2024, prior to the PM. The revised document supersedes those originally submitted with the application. Also, in response to s51 advice, the applicant provided the Addendum: Winter Bird Survey 2023/24 [\[AS1-108\]](#) to provide a complete second season of wintering bird survey data which was incomplete originally. An updated OLEMS [\[AS1-103\]](#) was also provided at this time to incorporate the additional winter bird survey data.

Scope and methodology

- 3.15.15. Section 21.6 of the ES [\[APP-076\]](#) lists onshore ecological impacts that have been scoped in to the assessment during each phase of the proposed development as well as those scoped out. Potential effects are assessed in relation to:
- construction – indirect impacts on designated sites, permanent loss of habitats, including irreplaceable and priority habitats, temporary loss of, or damage to priority habitats, impacts on protected and priority species and spread of INNS
 - operation and maintenance – disturbance of protected and priority species during maintenance works
 - decommissioning – impacts similar to construction but more limited in geographical extent and timescale with no permanent habitat loss
- 3.15.16. Section 22.5 of the ES [\[APP-077\]](#) details the scope of the assessment of onshore ornithological effects. Effects scoped in are as follows:
- construction – loss and damage of habitat for bird species listed as important ornithological features (IOFs), including functionally linked land (FLL), killing of and/or injury to birds, nestlings or eggs and/or damage to nests (all species), disturbance and displacement of IOFs, including those utilising FLL, pollution of waterbodies and watercourses used by IOFs and air quality impacts of habitats used by IOFs
 - operation and maintenance – disturbance of IOFs during planned and unplanned maintenance
 - decommissioning - impacts likely to be similar to construction, but more limited in geographical extent and timescale and there would be no permanent habitat loss
- 3.15.17. Potential transboundary effects are also scoped into the assessment of onshore ornithology [\[APP-077\]](#). Specifically, any or all of the other impacts potentially resulting in a population decline of migratory bird species, affecting populations in another country as well as England.
- 3.15.18. The desk study and survey areas for onshore ecology are identified in table 21.3 of the ES [\[APP-076\]](#). Designated sites data for sites up to 15 kilometre (km) from the Order limits, bat data from up to 5km of the Order limits and habitat and species data for up to 2km from the Order limits are considered in the Onshore Ecology Desk Assessment [\[APP-189\]](#) with buffers specified for other surveys and studies.
- 3.15.19. Section 22.4.1 of the ES [\[APP-077\]](#) defines the study areas for features for the assessment of onshore ornithology. This includes internationally and nationally designated sites within 15km, plus the pink-footed goose from the North Norfolk Special Protection Area (SPA) and Ramsar site as advised by Natural England (NE) and identified in figure 22.1 of volume 3 of Chapter 22 of the ES. Onshore local designations within 2km of the Order limits are also included as identified in figure 22.2.2 [\[APP-200\]](#) along with defined buffers for other surveys.
- 3.15.20. The existing baseline environment for onshore ecology is described in section 21.5 of the ES [\[APP-076\]](#). Table 21.5 details statutory designated sites within the study area, including the Sea Bank Clay Pits Site of Special Scientific Interest (SSSI) at landfall. Table 21.6 identifies non-statutory sites including local wildlife sites. Section 21.5.4 records habitats including Habitats of Principal Importance under s41 of the NERC Act 2006 and Lincolnshire Biodiversity Action Plan habitat.

- 3.15.21. No veteran or ancient trees are recorded within the Order limits although 146 trees are recorded within the Order limits, 52 trees occur within areas proposed for temporary or permanent works. Important hedgerows as identified in the Important Hedgerow Survey [\[APP-191\]](#) are also summarised. Species of plants and animals as identified in respective surveys are also summarised including bats, badgers, water voles, otters and GCN.
- 3.15.22. The existing baseline environment for onshore ornithology is set out in section 22.4.2 of the ES [\[APP-077\]](#). Table 22.3 and table 22.4 details designated sites and notified features. These include the Wash Special SPA and Ramsar site and Wash SSSI and National Nature Reserve with notified features such as the pink-footed goose. Table 22.6 identifies IOFs such as the yellow wagtail.
- 3.15.23. Section 22.4.4 identifies the future baseline for onshore ornithology. This includes the implementation of compensatory measures for adverse effects on the integrity of the Wash SPA and Ramsar arising from the Boston Alternative Energy Facility NSIP project which is within the vicinity and consists of the creation of grassland and wetland habitat from existing arable land to offset disturbance displacement of waterbirds from the River Haven. The RSPB's Greater Frampton Vision Landscape Recovery Project is also identified. This aims to create a wetland landscape replacing arable fields and joining up the nearby RSPB Freiston Shore and Frampton Marsh Reserves.
- 3.15.24. The maximum design scenario considered for onshore ecology is set out in table 21.13 of the ES [\[APP-076\]](#) for each of the impacts assessed. Equivalent details are provided for onshore ornithology in table 22.7 [\[APP-077\]](#).

The applicant's assessment of effects and proposed mitigation

- 3.15.25. Table 21.14 [\[APP-076\]](#) of the ES identifies embedded mitigation for onshore ecology. General measures include siting of the Order limits to avoid designated sites and habitats and the use of trenchless techniques. The OLEMS [\[AS1-103\]](#) and subsequent EMP provide the basis for other embedded mitigation such as the role of the EcOW. Specific measures for each phase of the proposed development are summarised such as the use of bunds and silent piling during construction to avoid disturbance to protected species.
- 3.15.26. Table 22.8 of the ES [\[APP-077\]](#) provides details of embedded mitigation for onshore ornithology with a degree of cross over with those measures highlighted for onshore ecology. Specific ornithological measures include restrictions to the removal of vegetation to take place outside of the breeding season (considered to be March – August inclusive) wherever possible to protect nesting birds as detailed in the OLEMS [\[AS1-103\]](#).
- 3.15.27. Onshore ecology effects of the project alone are assessed in section 21.9 of the ES [\[APP-076\]](#). Table 21.26 summarises effects for each of the impacts assessed including the identification of additional mitigation, where required and the subsequent residual impact. No residual significant effects are identified.
- 3.15.28. In relation to impacts on protected and priority species, prior to additional mitigation, significant effects are identified for GCN confined to onshore export cable corridor (ECC) segment 6. However, negligible effects are identified for amphibians as a group during construction. This reduces to no residual effects with additional mitigation in the form of a licence from NE. Significant effects at a site level only are also identified, prior to additional mitigation, for otter and water vole during

construction. In both cases, this reduces to no residual effects with mitigation including monitoring and surveys, the installation of culverts and sensitive vegetation clearance. Protected species licences would be sought from NE where impacts cannot be avoided.

3.15.29. Section 22.8 of the ES [\[APP-077\]](#) provides an assessment of the proposed development alone in relation to onshore ornithology. Table 22.26 summarises the assessment of effects, additional mitigation and residual effects.

3.15.30. Significant residual effects are identified for the loss and damage of habitat for protected and priority bird species including FLL during construction, specifically for yellow wagtail at a local level which is a species of county value and skylark at a local level. No other residual significant effects are identified.

Cumulative impact assessment

3.15.31. The applicant's cumulative impact assessment for onshore ecology and onshore ornithology is set out in sections 21.10 [\[APP-076\]](#) and 22.9 [\[APP-077\]](#) of the ES respectively. No significant cumulative effects are identified for onshore ecology or onshore ornithology.

Issues considered during the examination

3.15.32. Based on the comments raised by interested parties (IP) and the ExA's review of the application documents, the key issues considered during the examination were:

- protected species licences
- hydrological and pollution effects on the Sea Bank Clay Pits SSSI
- the extent to which BNG would be secured and delivered
- interaction of the proposed development on the RSPB Lincolnshire Wash Landscape Recovery project and RSPB Frampton Marsh Reserve
- compensatory habitat for skylark and yellow wagtail
- mitigation for ancient and veteran trees
- assessment of, and mitigation for, pink-footed goose, dark bellied brent goose, curlew, golden plover and lapwing at designated sites from noise
- effects from construction dust to nationally and internationally designated sites

3.15.33. At deadline (D) 5, the applicant submitted revised versions of the following documents to reflect clarifications, corrections, additional commitments or changes to cumulative impact assessment projects considered. For the avoidance of doubt, the overall conclusion regarding significance of effects for both onshore ecology and onshore ornithology remain unchanged from those considered at the beginning of the examination [\[APP-076\]](#) and [\[APP-077\]](#)

- ES Chapter 21 Onshore Ecology Volume 1 [\[REP5-039\]](#)
- ES Chapter 21 Onshore Ecology Figures Volume 2 [\[REP5-061\]](#) and [\[REP5-062\]](#)
- ES Chapter 21 Appendix 5 Badger Desk Study and Field Survey (confidential) [\[REP5-098\]](#)
- ES Chapter 22 Onshore Ornithology Volume 1 [\[REP5-041\]](#)
- ES Chapter 22 Volume 1 Onshore Ornithology (confidential) [\[REP5-043\]](#)
- ES Chapter 22 Appendix 2 Ornithology Desk Study Annex (confidential) [\[REP5-089\]](#)
- ES Chapter 22 Appendix 3 Winter Bird Survey 2022- 2023 [\[REP5-091\]](#) and [\[REP5-095\]](#)
- ES Chapter 22 Appendix 7 Addendum Winter Bird Survey 2023/24 [\[REP5-096\]](#)

- ES Chapter 22 Appendix 8 Additional Clarifications Relating to Natural England's Relevant Representations (Appendix I Onshore Ornithology) [\[REP5-097\]](#)

Protected species licences

- 3.15.34. NE's relevant representation [\[RR-045\]](#) identified that the applicant had yet to seek Letters of No Impediment (LoNI) from NE for a draft protected species mitigation licence for GCN, water vole, bats, badger and otter. NE stated that without having reviewed a draft licence application, it is unable to provide a position on the likelihood of a licence being granted. NE also indicated that it is unable to comment on the need for a licence as this responsibility falls to the applicant.
- 3.15.35. Lincolnshire Wildlife Trust (LWT) [\[REP2-070\]](#) and [\[REP4-145\]](#) also identified concerns regarding impacts on GCN, bats and water voles relating to the construction of the onshore cable corridor.
- 3.15.36. LCC [\[REP1-053\]](#) and [\[REP5-135\]](#) agrees with the applicant's approach to protected species and considers that impact avoidance and mitigation measures proposed are appropriate and that they should be secured in the DCO.
- 3.15.37. The applicant subsequently obtained LoNI from NE for GCN [\[REP3-043\]](#) and water vole [\[REP3-044\]](#). In relation to bats, badgers and otters the applicant provided justification for why licences for these species were not considered to be required and provided additional mitigation and commitments to undertake additional pre-commencement surveys in the updated OLEMS [\[REP6-070\]](#) and confidential OLEMS [\[REP6-072\]](#). This is secured by R12 of the dDCO [\[AS-042\]](#). In relation to otters, the confidential OLEMS commits the applicant to apply for an A45 licence if impacts cannot be avoided as determined by the ECoW.
- 3.15.38. By the close of the examination, NE confirmed that it was satisfied with the applicant's approach within the revised OLEMS to protected species licencing for GCN, bats, badger, water vole and otter as confirmed in the D6 version of NE's Risk and Issues Log [\[REP6-153\]](#).

The ExA's reasoning on protected species licences

- 3.15.39. The ExA notes that NE and LCC agreed with the applicant's approach to protected species by the close of the examination with additional mitigation set out in the OLEMS. It is not known if the D6 version of the OLEMS [\[REP6-070\]](#) and [\[REP6-072\]](#) addresses LWTs concerns in full, however, with the additional mitigation and commitment in place as secured by R12 of the dDCO [\[AS-042\]](#), the ExA is satisfied that the applicant has suitably addressed protected species.

Hydrological and pollution effects on the Sea Bank Clay Pits SSSI

- 3.15.40. NE's relevant representation [\[RR-045\]](#) stated that Sea Bank Clay Pits SSSI and its features should be included as sensitive ecological receptors in the final Pollution Prevention and Emergency Incident Response Plan (PPEIRP) risk assessment with regards to the use of drilling fluid. It also requested sight of a specific bentonite 'frack-out' management plan.
- 3.15.41. In response the applicant included a commitment in the final outline Code of Construction Practice (CoCP) [\[REP6-056\]](#) for the final PPEIRP to identify and include sensitive ecological receptors such as the Sea Bank Clay Pits SSSI and its features. The PPEIRP is secured via R18(2)(h) of the dDCO [\[AS-042\]](#) which must be approved by LCC in consultation with the relevant statutory nature conservation

body amongst others. The outline CoCP also provides a commitment that the PPEIRP will include a “Frack-out Management Plan” to include management measures to minimise the likelihood of unplanned release of drilling fluid.

- 3.15.42. NE [\[RR-045\]](#) also sought a commitment to monitor of Sea Bank Clay Pits SSSI during construction to avoid dewatering and that this must be secured within the DCO via an appropriate named plan. It also sought further details of back up mitigation measures to consider the potential pathway between the proposed development and related horizontal directional drilling and the SSSI. The applicant duly updated the outline CoCP and R18 of the dDCO [\[AS-042\]](#) to include a commitment for the applicant to produce a water quality management and mitigation plan prior to construction as part of the CoCP. Section 5.21 of the outline CoCP [\[REP6-056\]](#) provides a framework of what the water quality management and mitigation plan would include. It also commits for the plan to be informed by an updated groundwater risk assessment [\[REP4a-058\]](#) to be appended to the plan for approval. In relation to back up mitigation, the applicant states that further detail would be provided in the final CoCP.
- 3.15.43. NE [\[REP6-153\]](#) welcomed the additional commitment in the outline CoCP and requested sight of the water quality management and mitigation plan. At D6, NE also requested further commitments on this matter in the OLEMS.

The ExA’s reasoning on hydrological and pollution effects on the Sea Bank Clay Pits SSSI

- 3.15.44. As indicated in NE’s final Risk and Issues Log [\[REP6-153\]](#), the applicant’s inclusion of reference to the Sea Bank Clay Pits SSSI as a sensitive ecological receptor in the outline CoCP, would resolve this particular concern of NE. The ExA is also satisfied that the SSSI will be considered in the PPEIRP. However, the applicant has not provided a specific frack-out management plan as requested by NE. Nevertheless, the ExA notes that the outline CoCP does include a commitment for such a management plan to be produced within the PPEIRP. The outline CoCP also provides some headline details of what the plan may include. This plan would be subject to approval by LCC in consultation with the statutory nature conservation body. As such, the ExA considers that there are sufficient controls in place to ensure that a suitable frack out management plan would address sensitive ecological receptors prior to the commencement of construction.
- 3.15.45. Similarly, given the CoCP including the water quality management and mitigation plan and updated ground water risk assessment would be subject to approval by LCC in consultation with the relevant statutory nature conservation body, NE would have sight of the plan as part of the consent process for the discharge of requirements. It is unclear to the ExA precisely what additional commitments are required to be made in the OLEMS on this issue as identified by NE at D6 as they do not expand on the necessary detail, however, with the commitments set out in the outline CoCP and R18, the ExA considers that the issue is suitably addressed at this stage.

The extent to which BNG would be secured and delivered

- 3.15.46. NE [\[RR-045\]](#), LCC [\[RR-004\]](#) and LWT [\[RR-036\]](#) sought a commitment in the dDCO from the applicant to deliver BNG. NE also called for the use of Defra’s metric to calculate BNG.
- 3.15.47. LCC’s LIR [\[REP1-053\]](#) acknowledged that the delivery of 10% BNG is not currently mandatory for NSIPs but that it was good practice. It noted that BNG had been

secured on other NSIP projects in the county and that the applicant's own assessment [APP-302] at that time demonstrated a net loss. LCC went on to encourage the applicant to work with local stakeholders to identify opportunities and refine its approach to BNG and for BNG commitment to be monitored by an Environmental Compliance Officer for which LCC sought funding via a s106 agreement.

- 3.15.48. As summarised in its closing statement [REP6-121], the applicant subsequently updated the OLEMS [REP6-070] to include a new section 3.9 which provides a commitment to deliver a net gain and that this will be demonstrated using an appropriate metric. The OLEMS goes on to state that if there is a shortfall in overall biodiversity units from any metric type (habitat, hedgerow, or river), offsite habitat enhancement to deliver an overall net gain will be agreed and incorporated.
- 3.15.49. The applicant's closing statement clarifies that whilst the dDCO [AS-042] does not include a specific commitment to deliver BNG or a defined amount, a net gain is secured via R10 and R12 which require an LMP and EMP to be submitted and approved in accordance with the OLEMS. The applicant explains that as LCC is the discharging authority for these requirements, it would be in a position to refuse either of the management plans. The applicant considers that in the current policy and legislative context, a specific requirement or particular percentage cannot be justified and that the level of BNG would be determined at the detailed design stage when sufficient detail is known.
- 3.15.50. Following the close of the examination, NE's position is that subject to BNG being secured in the DCO, it has no further comment to make [REP6-153]. LCC's final Statement of Common Ground (SoCG) [REP5-135] maintains its position that a commitment to a 10% net gain should be made. However, it agrees that offsite provision could be made if BNG is not possible within the Order limits. It goes on to state that it is considered that the provision of an Ecological Compliance Officer using funding secured by the means of a s106 agreement would ensure that the BNG ultimately secured would be delivered and monitored to ensure it continues to deliver the requirements of BNG for the appropriate period.
- 3.15.51. A signed s106 agreement [AS-040] between the applicant, LCC and a landowner includes contributions towards an Environmental Compliance Officer who would be responsible for the monitoring and delivery of landscaping and ecological mitigation and enhancement secured through the DCO for LCC. This would include advising LCC on the discharge of relevant requirements in the DCO. The s106 agreement also includes a contribution to LCC for a Landscape and Ecology and Enhancement Fund. The strategy of the fund would be to secure BNG and landscape enhancement in connection with the proposed development, or funding third parties to carry out works or measures within a 5km radius of Work Nos 15 to 17 of the proposed development. The agreement lists projects that this may include such as the Greater Frampton Vision Landscape Recovery Project and measures identified in the emerging Local Nature Recovery Strategy. It also includes support for an Ecological Steering Group to monitor the progress of the EMP and LMP and to assist in the management of the fund.
- 3.15.52. In response to the ExA's first written questions (ExQ1) HOE 1.5 [REP2-051] regarding the policy test in NPS EN-5 paragraph 2.5.1 for environmental and biodiversity net gain on linear projects, the applicant explained that the proposed hedgerow and woodland planting around the OnSS would connect to existing hedgerows and tree cover thereby improving green corridors.

The ExA's reasoning on the extent to which BNG would be secured and delivered

- 3.15.53. Although there is not currently a legal requirement for NSIPs to deliver BNG, NPS EN-1 paragraph 4.6.6 is clear that opportunities for providing net gains should be sought where possible. The ExA considers that with the revisions to the OLEMS that commit to delivering a net gain across all unit types, with offsite works if required, the policy requirement of NSP EN-1 has been met.
- 3.15.54. Whilst the dDCO [\[AS-042\]](#) does not provide a specific requirement that explicitly refers to BNG or a specific percentage that would be delivered, R10 and R12 of the dDCO do require an LMP and EMP that accords with the OLEMS to be approved by LCC in consultation with the relevant local planning authority and statutory nature conservation body. As such, the ExA concludes that this provides sufficient control to LCC and assurance that BNG is secured. Furthermore, this would be assisted by the Environmental Compliance Officer and Landscape and Ecology and Enhancement Fund as secured via a s106 agreement [\[AS-040\]](#).

Interaction of the proposed development on the Lincolnshire Wash Landscape Recovery project and RSPB Frampton Marsh Reserve

- 3.15.55. The RSPB's relevant representation [\[RR-056\]](#) identified a concern regarding the potential for the construction of the onshore ECC to disrupt the water supply to the RSPB Frampton Marsh reserve, as the route of the cable, and the works access route, crosses the pipe carrying the water supply. The supply provides water critical to the wetland management carried out on the reserve.
- 3.15.56. As summarised in the final SoCG between the applicant and the RSPB, following the receipt of information from the RSPB, the applicant added details of the pipeline to the Crossing Schedule [\[REP4-020\]](#) and Crossing Plan [\[REP4-005\]](#) for the proposed development to ensure that it was accurately recorded and explained that all assets in this location would be crossed using trenchless techniques. The SoCG [\[REP6-099\]](#) confirms that this matter is agreed between the two parties.
- 3.15.57. The RSPB also stated [\[RR-056\]](#) that it would be necessary to consider any potential effects of cable route construction on the Lincolnshire Wash Landscape Recovery Project. The aim of the project is to use land to the south-east of Boston to expand the habitats that have developed so successfully at the RSPB's Frampton Marsh and Freiston Shore reserves to create a mosaic of wetland habitats. The RSPB sought a commitment from the applicant that this be dealt with as part of the development of any detailed construction and implementation plan for the cable route.
- 3.15.58. In response, the applicant identified the commitments made in the OLEMS [\[REP6-070\]](#) in this regard, including to reinstate all habitats but that the location of some may be altered based on stakeholder discussions in relation to the project. The final SoCG [\[REP6-099\]](#) between the two parties and the RSPB's response to ExQ2 [\[REP4-146\]](#) confirms that the RSPB is in agreement that measures in the OLEMS are sufficient.

The ExA's reasoning on the interaction of the proposed development on the Lincolnshire Wash Landscape Recovery project and RSPB Frampton Marsh Reserve

- 3.15.59. The ExA notes that both issues were agreed by the RSPB and the applicant at the close of the examination. The ExA is satisfied that the updated details in relation to

the water supply to the RSPB Frampton Marsh Reserve will minimise the risk of disruption to its water supply and that the OLEMS [\[REP6-070\]](#) provides sufficient information on the approach for the Lincolnshire Wash Landscape Recovery project.

Compensatory habitat for skylark and yellow wagtail

- 3.15.60. Noting the conclusions of residual significant effects for yellow wagtail and at a local level in Chapter 22 of the ES [\[APP-077\]](#), the ExA sought clarification from the applicant on its intention to explore opportunities to utilise severed land to provide compensatory habitat for these species in sections of fields adjacent to, or near to the Order limits, subject to agreements with landowners.
- 3.15.61. In its subsequent response to ExQ1 HOE 1.11 [\[REP2-051\]](#), the applicant explained that mitigation on severed land is not included in the Order limits and therefore not secured in the dDCO. However, it had agreed voluntary Heads of Terms with 94% of landowners along the ECC route and these agreements contain provisions for severed land. It stated that will continue to liaise with landowners to finalise the assessment of severed land and agree a severed land management plan as defined in the outline CoCP. LCC [\[REP4-133\]](#) welcomed the applicant's intentions but expressed concern about the enforceability of the compensatory measures if not addressed in the DCO.
- 3.15.62. The applicant went on to conclude that it was confident that the mitigation measures are secured and can be implemented. Following ExQ2 HOE 1.10 [\[REP4-107\]](#) and discussion at issue specific hearing 5 [\[REP4-120\]](#), the applicant updated the OLEMS [\[REP6-070\]](#) and outline CoCP [\[REP6-056\]](#) to make specific reference to the utilisation of severed agricultural land for compensatory habitats for skylark and yellow wagtail. Final details of the measures for the severed land would be set out in the final EMP subject to approval by LCC in consultation with the relevant statutory nature conservation body under R12 of the dDCO [\[AS-042\]](#).

The ExA's reasoning on compensatory habitat for skylark and yellow wagtail

- 3.15.63. With the inclusion of specific reference to the use of severed agricultural land and engagement with landowners in the OLEMS and outline CoCP, the ExA is satisfied that the compensation is adequately addressed via R12 of the dDCO and the ExA is therefore satisfied that the impacts to these birds would be addressed by way of compensation.

Mitigation for ancient and veteran trees

- 3.15.64. The Forestry Commission [\[RR-021\]](#) acknowledged that whilst there are no ancient woodlands within the Order limits, should any ancient or veteran trees be identified in the Order limits or adjacent to it, the root protection areas should be identified and fenced to avoid loss or deterioration. The applicant agrees [\[PD1-071\]](#) with this position and highlighted the OLEMS [\[REP6-070\]](#) which commits to identify any veteran or ancient trees in the pre-commencement surveys along with root protection areas that would be demarcated by fencing prior to any works.
- 3.15.65. NE [\[RR-045\]](#) also requested that for any ancient or veteran trees impacted, NE's standing advice should be referred to and commitments to mitigate impacts included within the OLEMS. The applicant subsequently updated the OLEMS [\[REP6-070\]](#) as requested, and NE confirmed [\[REP6-153\]](#) that it is satisfied in this regard.

The ExA's reasoning on mitigation for ancient and veteran trees

- 3.15.66. The ExA notes that NE agrees considers its issues to be addressed. Whilst no further feedback was received from the Forestry Commission during the examination, the ExA is satisfied that its request is adequately covered in the OLEMS and that ancient or veteran trees and their root protection areas would be identified and protected prior to construction.

Assessment of, and mitigation for, including for pink-footed goose, dark bellied brent goose, curlew, golden plover and lapwing at designated sites from noise

- 3.15.67. NE [\[RR-045\]](#) identified concerns that the preliminary report of the second year overwintering survey [\[APP-208\]](#) did not provide data for 2 complete years. Without this dataset, NE would not be able draw any conclusions on the proposed impacts to protected passage and overwintering bird species or related mitigation for designated species of the Wash SPA and Ramsar using functionally linked land.
- 3.15.68. The issue was also identified in s51 advice [\[PD-004\]](#) provided to the applicant with a request for confirmation of any implications for, or updates to the ES and/or HRA.
- 3.15.69. The applicant subsequently submitted the Addendum: Winter Bird Survey 2023/24 [\[AS1-108\]](#) to provide the missing data. NE welcomed the submission of the data but at the close of the examination [\[REP6-153\]](#), it had not agreed mitigation although it noted that considerable progress had been made.
- 3.15.70. In relation to pink-footed goose and dark-bellied brent goose, NE's final Risk and Issue Log [\[REP6-153\]](#), confirms that it met with the applicant towards the close of the examination to discuss mitigation. It states that provided the applicant subsequently updated the OLEMS and Schedule of Mitigation at D6 to provide for additional screening to minimise disturbance to dark-bellied brent goose, NE expects to be able to agree a conclusion of no Adverse Effects of Integrity to these over wintering features of the Wash SPA and Ramsar site.
- 3.15.71. NE's final Risk and Issue Log [\[REP6-153\]](#) also confirms that discussions were held with the applicant to consider further mitigation for curlew, golden plover and lapwing. NE welcomed the applicant's proposed amendments to the OLEMS to provide further details of mitigation and monitoring.
- 3.15.72. However, Appendix I4 to NE's D6 submissions [\[REP6-152\]](#) details the applicant's proposed amendments as considered by the two parties outside of the examination along with further points of clarification and required commitments that NE sought, namely, additional clarity for mitigation at the Anderby Creek LWT Reserve, identification of contingency measures if screening is not possible at the Haven, examples of mitigation and ECoW may suggest when overseeing monitoring of bird responses and consideration of cold weather working. NE confirms that if this advice is incorporated into the OLEMS to minimise disturbance, it would address its concerns and allow it to reach a conclusion of no Adverse Effects of Integrity to the golden plover, lapwing and curlew features of the Wash SPA and Ramsar.
- 3.15.73. In response, paragraph 162 of the OLEMS [\[REP6-070\]](#) as submitted by the applicant provides additional text which states that consideration will be given to the necessity for screening and the need to minimise the potential for disturbance caused by the screening itself being moved by wind. It goes on to state that in the event that screening was deemed necessary but not practical, then a contingency would be enacted to be agreed as part of the final LEMS. Further mitigation would

also set out in the LEMS at the detailed design stage. The D6 version of the Schedule of Mitigation [\[REP6-074\]](#) also incorporates this additional commitment and confirms that the EMP is secured via R12 of the dDCO [\[AS-042\]](#).

- 3.15.74. In response to NE's request for further mitigation for the Anderby Creek LWT Reserve, the applicant inserted additional text in the OLEMS at paragraph 157 to commit that ECoW will advise on potential impacts to and mitigation measures for aggregations of birds arising from the soft start works and that the recommendation of the ECoW would be complied with. Corresponding text was included by the applicant in the final Schedule of Mitigation [\[REP6-074\]](#).
- 3.15.75. Furthermore, the applicant introduced the text at paragraph 171 of the OLEMS to specify the role of the ECoW to advise on impacts to and mitigation for lapwing, golden plover and curlew arising from localised winter works with additional measures for cold weather working.
- 3.15.76. More broadly, at D5, NE provided further advice [\[REP5-168\]](#) from its ornithology specialist on the noise disturbance assessment and impacts to the designated features of the Wash SPA / Ramsar, and Sea Banks Clay Pits Site of Special Scientific Interest (SSSI) including on FLL associated with designated birds. This confirmed that although the applicant's noise assessment was not undertaken as per NE's guidance as set out in its relevant representation [\[RR-045\]](#), for the purposes of the proposed development, NE consider it to be acceptable. This included the applicant's assessment of the Sea Bank Clay Pits SSSI, use of its own survey data to assess FLL in ES Chapter 22 [\[REP5-041\]](#), the assessment of designated bird features of the Wash SPA and Ramsar, thresholds applied for construction and operational noise impact magnitudes. NE also confirmed that whilst FLL was not considered in ES Chapter 26 [\[APP-081\]](#) as an ecological receptor, it was satisfied that FLL is sufficiently considered in Chapter 22 of the ES [\[REP5-041\]](#).
- 3.15.77. However, NE's D5 advice [\[REP5-168\]](#) also stated that monitoring of ecological noise sensitive receptors against the baseline, including designated features of designated sites and any FLL they use should be set out in the outline Noise and Vibration Management Plan (NVMP) [\[REP2-032\]](#) and the final NVMP secured as a requirement within the DCO along with a commitment to adjust activities during construction and decommissioning where an impact is identified.
- 3.15.78. With regards to NE's advice on the NVMP [\[REP2-032\]](#), the applicant's detailed response [\[REP6-110\]](#) as summarised in its closing statement [\[REP6-121\]](#) indicates that it sought further clarification from NE on what was required. NE provided further details at D6 [\[REP6-152\]](#) which indicated that noise disturbance to birds is an under studied area and that the project, through monitoring, may be able to add further data to inform future scenarios and support the assessment of impacts to birds in a different scenario and at different times of year. Whilst the applicant does not consider any additional monitoring to be justified or necessary, it updated paragraph 272 of the OLEMS [\[REP6-070\]](#) to commit to further consultation with NE to discuss the potential for targeted baseline monitoring.

The ExA's reasoning on the assessment of, and mitigation for, pink-footed goose, dark bellied brent goose, curlew, golden plover and lapwing at designated sites from noise

- 3.15.79. The ExA notes NE's final advice in relation to pink-footed goose, dark bellied brent goose, curlew, golden plover and lapwing, including its suggested additional items

on the applicant's proposed amendment to the OLEMS [\[REP6-152\]](#) and statements that these matters would be addressed if this advice was incorporated into the OLEMS. Having reviewed the OLEMS [\[REP6-070\]](#), the ExA believes that the applicant has addressed NE's outstanding advice and therefore that these issues can be considered resolved.

- 3.15.80. In relation to NE's broader advice regarding noise disturbance, the ExA is generally satisfied with the applicant's approach and notes that this reflects NE's position [\[REP5-168\]](#). With regards to NE's outstanding request for noise monitoring and potential adjustments to where an impact is identified to be included in the NVMP, the ExA notes the applicant's updated OLEMS which commits to further consultation with NE specifically on this matter. As such, the ExA considers that adequate provisions are secured in the dDCO for this matter.

Effects from construction dust to nationally and internationally designated sites

- 3.15.81. NE advised [\[RR-045\]](#) using a precautionary 200m buffer for assessment of construction dust impacts to nationally and internationally designated sites. To inform mitigation presented in the CoCP and outline Air Quality Management Plan (AQMP) [\[APP-270\]](#) and secured in the DCO.
- 3.15.82. At D5 [\[REP5-168\]](#), NE confirmed that mitigation provided by the applicant in the revised outline AQMP [\[REP4a-078\]](#) was sufficient. However, to resolve the issue, NE sought ongoing monitoring at ecological designated sites more than 50 metres (m) from dust generating activity to be included in the outline AQMP [\[APP-270\]](#) to ensure that any potentially damaging activities to designated features generated by construction dust are captured and adjusted accordingly.
- 3.15.83. In response, at D6, the applicant revised table 2.1 of the outline AQMP [\[REP6-058\]](#) to commit to dust deposition monitoring at sensitive ecological designations with the locations to be agreed with NE. Whilst NE [\[REP6-152\]](#) and [\[REP6-153\]](#) welcomed this additional commitment for dust monitoring, it advised that further commitments should be made for real time monitoring and to undertake remedial measures if unforeseen impacts are observed during monitoring.

The ExA's reasoning on effects from construction dust to nationally and internationally designated sites

- 3.15.84. The ExA welcomes the revised outline AQMP [\[REP6-058\]](#) which commits to monitoring at sensitive ecological designations with the locations to be agreed with NE. However, a commitment for real time monitoring and to undertake remedial measures if unforeseen impacts are observed during monitoring are absent from the outline AQMP.
- 3.15.85. The ExA notes that an AQMP must form part of the CoCP which is secured under R18(2)(a) of the dDCO [\[AS-042\]](#). As such, it must be approved by LCC following consultation with the statutory nature conservation body amongst others prior to the commencement of onshore works. Accordingly, NE would have the opportunity to seek further details in the final AQMP to address real time monitoring and related remedial measures if appropriate. The ExA is therefore satisfied that this control would safeguard the sites from dust.

Conclusions

- 3.15.86. The ExA is satisfied that the applicant has undertaken an assessment of effects on onshore ecology [\[REP5-039\]](#) and onshore ornithology [\[REP5-041\]](#) as required by NPS EN-1 paragraph 5.4.17. Significant residual effects are identified for onshore ornithology in relation to yellow wagtail and skylark at a local level temporarily during construction. No other residual significant effects are identified. The ExA concurs with the applicant's conclusion on all effects.
- 3.15.87. The ExA also considers that the applicant has taken advantage of measures to conserve and enhance biodiversity and embed opportunities for nature inclusive design as required by NPS sections 5.4 and 4.7. The OLEMS [\[REP6-070\]](#) would also function as a Biodiversity Management Strategy as envisaged by NPS EN-1 paragraph 5.4.36. The proposed development would also help to reconnect habitats via green corridors through hedgerow and tree planting in accordance with NPS EN-5 section 2.5. The OLEMS also provides an ecological monitoring strategy per NPS EN-3 paragraph 2.8.221.
- 3.15.88. The ExA is satisfied with the applicant's approach in the OLEMS [\[REP6-070\]](#) to avoid and mitigate impacts on ancient or veteran trees and therefore the requirement of NPS EN-1 paragraph 5.4.32 has been met.
- 3.15.89. With the additional mitigation and commitment in place as secured by R12 of the dDCO [\[AS-042\]](#), the ExA is satisfied that the applicant has suitably addressed protected species. As such, in applying paragraph 5.4.55 of NPS EN-1, the ExA does not consider that the SoS should refuse consent due to harm to protected species.
- 3.15.90. Measures for avoidance, mitigation, compensation and enhancement as required by NPS EN-1 are provided by the applicant in the OLEMS [\[REP6-070\]](#) and outline CoCP [\[REP6-056\]](#), which will inform the EMP, LMP and final CoCP to be approved by LCC in consultation with the relevant statutory nature conservation body and the relevant planning authority, as secured by R10, R12 and R18 of the dDCO [\[AS-042\]](#).
- 3.15.91. In the context of the above, the ExA does not identify conflict with strategic policies 24 and 25 of the East Lindsey Local Plan Core Strategy (2018) or policy 28 of the, South East Lincolnshire Local Plan (2019) or section 15 of the NPPF.
- 3.15.92. Paragraph 5.4.43 of NPS EN-1 requires the SoS to give significant weight to any residual harm that is not avoided, mitigated or compensated for. The ExA does not consider that this applies to the proposed development and that the mitigation hierarchy has been appropriately applied by the applicant.
- 3.15.93. In relation to BNG, the ExA considers the commitment in the OLEMS [\[REP6-070\]](#) which is secured by R10 and R12 of the dDCO [\[AS-042\]](#) to deliver a net gain should be viewed positively in the planning balance. However, as the amount of net gain has yet to be defined, the ExA assigns little weight to it.
- 3.15.94. However, significant residual effects are identified for the loss and damage of habitat for protected and priority bird species including FLL during construction. Specifically for yellow wagtail at a local level which is a species of county value and skylark at a local level. Whilst compensation would be provided on severed agricultural land as detailed in the OLEMS [\[REP6-070\]](#) and outline CoCP [\[REP6-](#)

[056](#)], this harm is considered by the ExA to weigh negatively in the planning balance.

- 3.15.95. Overall, the ExA considers that onshore ecology and ornithology matters weigh against the making of the Order and the ExA assigns little weight to this within the overall [planning balance](#).

3.16. HISTORIC ENVIRONMENT AND CULTURAL HERITAGE – OFFSHORE AND ONSHORE

Introduction

3.16.1. This section considers the effects of the proposed development on both the offshore and onshore historic environment and cultural heritage.

3.16.2. In its consideration of historic environment and cultural heritage below, the Examining Authority (ExA) has had regard to:

- National Policy Statement for Energy EN-1 (NPS EN-1) as set out in Section 5.9
- National Policy Statement for Renewable Energy (NPS EN-3), as set out in Section 2.8
- National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) as set out in Section 2.9
- UK Marine Policy Statement (MPS) 2011
- the Ancient Monuments and Archaeological Areas Act 1979 (as amended by the National Heritage Acts 1983 and 2002), which protects scheduled monuments that may include the remains of vessels or aircraft
- the Protection of Wrecks Act 1973, which provides protection for sites of designated wrecks including provision for a restricted area around the wreck site
- the Protection of Military Remains Act 1986, which provides protection for the wreckage of military aircraft and designated military vessels
- the East Inshore and East Offshore Marine Plans (EIEOMP), Policy SOC2, which provides protection for offshore and intertidal heritage assets
- the Infrastructure Planning (Decisions) Regulations 2010, Regulation 3, which sets out requirements for the decision maker in connection with listed buildings and scheduled monuments
- the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
- the Ancient Monuments and Archaeological Areas Act 1979 (as amended)
- the National Planning Policy Framework (NPPF)
- Local Impact Report (LIR)
- any matters prescribed in relation to the development
- any other important and relevant matters

The applicant's case

Offshore

3.16.3. Environmental Statement (ES) Chapter 13, Marine and Intertidal Archaeology [[APP-068](#)], includes a description of offshore and intertidal designated heritage assets and features of potential archaeological interest, as well as an assessment of the potential impacts of the proposed development. The applicant's assessment and findings are supported by technical reports and appendices including:

- Marine and Intertidal Archaeology Figures [[APP-101](#)]
- Marine and Intertidal Archaeology Technical Report (Appendix 1) [[APP-167](#)]
- Geoarchaeological Phase 1 Report Export Cable Corridor (ECC) (Appendix 2) [[APP-168](#)]
- Geoarchaeological Phase 1 Report Array (Appendix 3) [[APP-169](#)]
- Outline Marine Archaeological Written Scheme of Investigation (WSI) [[APP-282](#)]

- 3.16.4. The offshore WSI would be secured under requirement (R)13 of the draft Development Consent Order (dDCO) [\[PD1-024\]](#).

Onshore

- 3.16.5. ES Chapter 20, Onshore Archaeology and Cultural Heritage [\[APP-075\]](#) was superseded by [\[AS1-048\]](#) before the start of the examination in response to Section 51 advice. This chapter contains an assessment of onshore archaeology and cultural heritage for construction, operational and decommissioning stages. It is supported by technical reports and appendices including:

- Desk Based Assessments Parts 1 to 8 (Appendix 20.1) [\[APP-180\]](#), [APP-181](#), [APP-182](#), [APP-183](#), [APP-184](#), [APP-185](#), [APP-186](#), [APP-187](#)
- Heritage Statement (Appendix 2) [\[APP-188\]](#)
- Onshore Outline Written Scheme of Investigation for Archaeological Works [\[APP-283\]](#) superseded by [\[PD1-052\]](#)
- Historic Environment Plan Onshore [\[PD1-016\]](#)

- 3.16.6. Cumulative effects on marine and intertidal archaeology are covered in Chapter 13 Section 13.10 [\[APP-068\]](#) and those for onshore archaeology and cultural heritage are covered in Chapter 20 Section 20.9 [\[AS1-048\]](#).

- 3.16.7. The onshore WSI would be secured under R17 of the dDCO [\[PD1-024\]](#).

Scope and methodology

Offshore

- 3.16.8. The applicant has identified a series of potential impacts on marine archaeology in section 13.7.1 of ES Chapter 13 [\[APP-068\]](#). These are considered primarily in terms of direct impacts to heritage assets and indirect impacts to heritage assets associated with changes to marine physical processes.

- 3.16.9. The applicant has defined the marine archaeology study area as:

- the array area
- the offshore ECC
- offshore reactive compensation platform (ORCP) areas
- a 1kilometre (km) buffer up to mean high water springs (MHWS) surrounding the array area and ECC
- artificial nesting structure areas, buffered by 1km
- the biogenic reef area

- 3.16.10. The area from MHWS landward is considered in Chapter 20 of the ES [\[AS1-048\]](#).

- 3.16.11. The applicant has noted in section 13.4.5 of ES Chapter 13 [\[APP-068\]](#) that the offshore marine archaeological resource can be attributed to four main categories:

- Submerged prehistoric landscapes, which may contain highly significant evidence of prehistoric human occupation and/or environmental change
- Archaeological remains of watercraft deposited when such vehicles sank while at sea or became abandoned in an inter-tidal context
- Remains of aircraft crash sites, either coherent assemblages or scattered material, usually the result of World War Two military conflict
- Structural remains other than watercraft, including such elements as fish traps, abandoned quays, defensive structures or sites lost to coastal erosion

3.16.12. Additionally, the applicant has noted that historic seascape character includes the historical cultural influences which shape present perception of seascapes, its uses, and its ability to accommodate change.

3.16.13. An overview of the project consultation process is presented within ES Chapter 6, Technical Consultation [\[APP-061\]](#) and the Consultation Report [\[APP-032\]](#). The applicant consulted through the evidence plan process, initiated to facilitate engagement with key stakeholders as part of expert topic groups to encourage regular, formalised consultation on the development of the project and to agree evidence required.

Onshore

3.16.14. The applicant has identified a series of potential impacts on onshore archaeology and cultural heritage [\[AS1-048\]](#). These are considered in terms of:

Construction

- permanent direct impacts to buried archaeological remains
- temporary indirect impacts to designated and non-designated heritage assets through setting change
- temporary direct impact to non-designated heritage assets

Operation and maintenance

- permanent indirect impacts to designated and non-designated heritage assets through setting change caused by the presence of the onshore substation (OnSS)

Decommissioning

- temporary indirect impacts to designated and non-designated heritage assets through setting change
- permanent direct impacts to buried archaeological remains

3.16.15. The applicant has identified the study area within the Archaeological Desk Based Assessment, Parts 1-8 (Appendix 20.1) [\[APP-180\]](#), [APP-181](#), [APP-182](#), [APP-183](#), [APP-184](#), [APP-185](#), [APP-186](#), [APP-187](#) as defined by a buffer of up to 2 km from the Order Limits and the Heritage Statement [\[APP-188\]](#) as defined by a buffer of up to 5km from the Order Limits. The 5km buffer includes: an inner 2km buffer for assets of lower significance; the 2-5km for Scheduled Monuments and Grade I and II* Listed Buildings as well as Registered Parks and Gardens and Conservation Areas. These parameters were established through consultation with the Lincolnshire County Council Historic Environment Officer through their scoping response.

3.16.16. The applicant notes the designated heritage assets within the study area that represent the worst-case scenario of the number of assets potentially affected by the proposed development, primarily through changes in setting but in respect to certain assets such as Historic Landscape Character (HLC) and hedgerows' physical impact [\[AS1-048\]](#) (Section 20.4.4). These are comprised of the following:

- seven Scheduled Monuments
- nine listed buildings (3 Grade I and 6 Grade II)
- three Conservation Areas (Frampton, Gosberton and Moulton)

- 46 non-designated farmhouses
- four non-designated sea-banks/drains
- one non-designated medieval village
- two non-designated medieval roads
- other non-designated features including a possible mill mound and pond within the Order Limits and HLC character areas and hedgerows important under the historic criteria

3.16.17. The applicant notes that field evaluation comprising a watching brief of site investigations, magnetometer geophysical survey and electromagnetic geophysical survey has been undertaken. Whilst these surveys have not extended to the entire footprint of the Order Limits, the applicant considers in paragraph 130 of ES Chapter 20 [\[AS1-048\]](#) that the baseline presented has allowed a sufficient understanding of the potential significant impact of the proposed development upon archaeological remains.

The applicant's assessment of effects and its proposed mitigation

Offshore

3.16.18. The applicant states in ES Chapter 13 [\[APP-068\]](#) that shallow geophysical and ultra-high seismic data was collected across the array area and offshore ECC. There is currently no geophysical data available for the compensation areas for biogenic reef creation and recreation and for artificial nesting structures. However, the applicant considers that the areas identified are sufficient to enable micro-siting of infrastructure following post-application surveys.

3.16.19. Furthermore, the applicant sets out that there have been no offshore geotechnical surveys undertaken for archaeological assessment and that these are planned post-application.

3.16.20. The applicant has provided a definition of the archaeological potential of anomalies found during data collection in table 13.2 [\[APP-167\]](#) and has identified:

- 23 anomalies as having been assessed as having high archaeological potential, as they are seen in all the geophysical data, or they correlate with recorded locations of wrecks
- 166 anomalies of medium archaeological potential, with a precautionary approach of avoidance of 50 metres (m) and further investigations proposed
- 2,228 anomalies of low archaeological potential

3.16.21. The applicant's proposed embedded mitigation specific to marine and intertidal archaeology is identified by the applicant [\[APP-068\]](#) (Table 13.7) and set out in the outline marine archaeological WSI [\[APP-282\]](#) and secured through dDCO [\[PD1-024\]](#) condition 13. This includes:

- archaeological exclusion zones (AEZ)
- micro-siting
- protocol for archaeological discoveries
- archaeological assessment of available data
- post-construction monitoring plan

3.16.22. Table 13.15 [\[APP-068\]](#) sets out the projects considered for the assessment of cumulative impacts. The applicant's Cumulative Assessment Summary [\[APP-068\]](#) (section 13.10) states that the significance of effect has been assessed as minor to

negligible and the effect is consequently considered not significant in Environmental Impact Assessment (EIA) terms.

- 3.16.23. ES Chapter 13 [\[APP-068\]](#) concludes that the residual adverse effects of the proposed development on offshore archaeology and cultural heritage would be at worst low to negligible adverse, which is not significant in EIA terms.

Onshore

- 3.16.24. The applicant's proposed embedded mitigation that is common across the proposed development is detailed in the Schedule of Mitigation [\[APP-287\]](#).
- 3.16.25. Proposed embedded mitigation specific to onshore archaeology and cultural heritage is identified by the applicant in Table 20.5 of ES Chapter 20 [\[AS1-048\]](#). The applicant notes that careful routing avoids key areas of heritage and archaeological sensitivity, including the avoidance of Slackhome Deserted Medieval Village.
- 3.16.26. Additional mitigation specific to onshore archaeology and cultural heritage is identified by the applicant in Table 20.18 [\[AS1-048\]](#) and set out in the Onshore Outline WSI for archaeological works [\[PD1-052\]](#). This includes:
- trial trenching
 - set-piece excavation
 - strip, map and sample
 - earthwork survey
 - watching brief
 - preservation in situ
- 3.16.27. The applicant notes in ES Chapter 20 [\[AS1-048\]](#) that the requirement for mitigation works will be appropriate and proportionate in scale with the level of significance of potential archaeological remains formally agreed with the Historic Environment Officer at Lincolnshire County Council (LCC) in consultation with Historic England (HE) and the relevant local planning authority and set out within subordinate WSIs.
- 3.16.28. The applicant has concluded in Table 20.18 of the ES [\[AS1-048\]](#) that the worst case residual adverse effects of the proposed development alone on onshore archaeology and cultural heritage would be minor adverse on the designated and non-designated assets, historic landscape character and hedgerows during construction. However, there are some exceptions with a higher level of residual impact assessed.
- 3.16.29. The following were assessed to have a moderate (significant) residual impact (direct impacts to non-designated assets):
- disturbance to prehistoric (permanent) iron age occupation features covered by later tidal mudflats, potentially including area of archaeological interest 2 in ECC2
 - disturbance to Roman occupation remains, potentially including area of archaeological interest 2 in ECC2
 - disturbance to medieval occupation in area of archaeological interest 9 in ECC7; and
 - disturbance to medieval occupation other locations outside Slackholme, potentially including area of archaeological interest 4 in ECC2 and Area of Archaeological Interest 10 in ECC6

- 3.16.30. The following were assessed to have a minor to moderate (potentially significant) residual impact (direct impacts to non-designated assets):
- disturbance to prehistoric (transient/ short lived) features, later worked flint and wooden artefacts such as fishtraps, jetties, trackways (importance eroded by likely eroded and ex situ survival)
 - disturbance to peat which may contain deposits of paleoenvironmental and geoarchaeological potential
- 3.16.31. During operation and maintenance, the applicant has concluded that the residual impact worst case would be minor adverse (permanent) in relation to effects to historic landscape character at Bicker Haven – The Wash and neutral in respect to indirect effects to scheduled monuments, listed buildings and non-designated farmhouses.
- 3.16.32. The applicant notes that no designated archaeological remains would be physically affected by the proposed development, this being secured by the Schedule of Mitigation [[APP-287](#)] in respect to the Abbey Hills moated site monument. Table 2.1 of the Schedule of Mitigation sets out that “where the boundary of the project is within or in very close proximity to Abbey Hills Moat (Scheduled Monument 1016044), control of working areas and marking out of the site boundary would be employed to avoid disturbance to the monument from construction plant and activities.”
- 3.16.33. In addition, the applicant notes that other potential remains of national (high) importance which could be present in association with Slackholme deserted medieval village would be avoided through the use of trenchless techniques, as detailed in the Schedule of Mitigation [[APP-287](#)] and the Onshore Outline WSI for Archaeological Works [[PD1-052](#)], secured through dDCO R7 [[PD1-024](#)].

Cumulative Impact Assessment

- 3.16.34. The applicant’s cumulative impact assessment for archaeology and cultural heritage is set out in Section 20.9 [[AS1-048](#)]. This includes an assessment of cumulative effects for the Naylor’s Farm Application which is an anaerobic digester plant and the National Grid Substation (NGSS) at Weston Marsh.
- 3.16.35. In relation to direct impacts on archaeology, apart from the potential direct impact to possible paleochannels, transient remains, salterns and deposits of peat, which the applicant considers in this location would be anticipated to have been affected by erosion, no cumulative impacts would be predicted.
- 3.16.36. The applicant concludes that the works associated with Naylor’s Farm and the OnSS would not be anticipated to combine to cause a significant impact due to the anticipated level of importance of remains as set out in Table 20.14 [[AS1-048](#)]. Similarly, the applicant concludes that the works associated with the 400kv cable route and the NGSS would not be expected to combine to cause a significant impact due to the anticipated level of importance of remains as set out in Table 20.16 [[AS1-048](#)].
- 3.16.37. In relation to cultural heritage setting impacts, the applicant set out common receptors in Table 20.17 [[AS1-048](#)]. These are assets located in the vicinity of the NGSS where effects have been predicted in respect to the construction of the 400kv cable and the OnSS. Minor adverse cumulative effects which would be temporary are identified for all receptors and the applicant concludes that impacts identified for

the OnSS are not anticipated to combine cumulatively with the NGSS proposals to increase the level of impact already identified. Therefore, no significant cumulative impacts are predicted in respect to heritage receptors through setting change.

Issues considered during the examination

3.16.38. During the course of the examination, the applicant submitted revisions to the ES documents, as follows:

- Chapter 13 Marine and Intertidal Archaeology [\[REP5-025\]](#)
- Chapter 20 Onshore Archaeology and Cultural Heritage [\[REP5-037\]](#)

3.16.39. Based on the comments raised by Interested Parties (IP) and the ExA's review of the application documents, the key issues considered during the examination were:

- noise and vibration impact to Middlecotts Hospital Almshouses
- the extent of survey work for onshore archaeology
- grouping of non-designated farmsteads

3.16.40. No concerns relating to adverse effects on offshore archaeology were raised by IPs. The ExA was satisfied that the applicant has adequately assessed impacts on offshore archaeology in its ES Chapter 13 [\[APP-068\]](#) superseded [\[REP5-025\]](#). The ExA have no reason to disagree with the conclusions of the ES on the matter of offshore archaeology and therefore did not pursue matters related to marine archaeology further during the examination.

Noise and vibration impact to Middlecotts Hospital Almshouses

3.16.41. Relevant representations (RR) from Mr Anthony Kindred [\[RR-084\]](#) and Ms Lisa Kindred [\[RR-085\]](#) raised concerns about the impact of heavy vehicles and vibration on the shallow foundations of their property which forms part of the Grade II listed Middlecotts Hospital Almshouses.

3.16.42. The applicant's response to RRs [\[PD1-071\]](#) sets out the British Standard guidance on levels of ground-borne vibration and states that to cause damage to residential type buildings a Peak Particle Velocity (PPV) of approximately 15mm/s-1 (at 4Hz) is required. It goes on to give an example of a more precautionary PPV limit set for heritage buildings on the Crossrail infrastructure project of 3mm/s-1. Furthermore, the applicant sets out that at worst a 'minor level of effect' is predicted at residential receptors which is based on the human response to vibration rather than damage to buildings. This equates to a PPV level of 0.99mm/s-1 during the daytime and below 0.3mm/s-1 during the night-time.

3.16.43. The ExA sought confirmation from HE in the Examining Authority's First Written Questions (ExQ1) [\[PD-013\]](#) and East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC) in the Examining Authority's Second Written Questions (ExQ2) [\[PD-020\]](#) whether they consider the applicant's conclusions to be satisfactory.

3.16.44. HE's response [\[REP2-068\]](#) noted the applicant's conservative limits to vibration levels and stated, for this to be demonstrably effective would require a mechanism for monitoring and control further to the Outline Noise and Vibration Management Plan (NVMP).

3.16.45. ELDC, BBC and SHDC's joint response to ExQ2 [\[REP4-132\]](#) considered the results provided by the applicant to be appropriate with regards to final vibration

predictions. They considered that in cases such as this listed building, a vibration monitoring procedure should be included in the NVMP. Furthermore, they consider that relevant vibration sensitive receptors in the immediate area to any proposed works, and the Council, should be informed ahead of works commencing and that monitoring equipment should be used in the vicinity of the works. They also requested a contact point to be provided for complaints.

- 3.16.46. The applicant's comments on responses to ExQ2 [\[REP4a-114\]](#) confirmed that a monitoring requirement is set out in Sections 5.4 and 5.5 of the Outline NVMP [\[REP2-031\]](#) and that details of the point of contact for complaints will be included within the final version of the NVMP.

The ExA's reasoning on noise and vibration impacts to Middlecotts Hospital Almshouses

- 3.16.47. The ExA, alongside HE and the district and borough councils note the applicant's conservative limits to its assessment of vibration impacts. Furthermore, the ExA considers that commitments to the consultation of vibration sensitive receptors and the inclusion of vibration monitoring procedures have been adequately secured via the wording of the Outline NVMP [\[REP2-031\]](#), which is a certified document in schedule 21 of the final dDCO [\[REP6-008\]](#) and under the terms of R8 as part of the Code of Construction Practice.

- 3.16.48. For these reasons, the ExA is satisfied that the control of noise and vibration impacts to Middlecotts Hospital Almshouses and other vibration sensitive receptors have been adequately secured in the final dDCO [\[REP6-008\]](#). The ExA, with the controls and monitoring secured, are satisfied there would be no adverse impact to these listed buildings.

The extent of survey work for onshore archaeology

- 3.16.49. LCC in its RR [\[RR-004\]](#) and LIR [\[REP1-053\]](#) and HE [\[REP1-042\]](#) both raised concerns due to the partial completion of survey work and the magnitude of evaluation and assessment still required post-consent.
- 3.16.50. The applicant's response to ExQ1 [\[REP2-051\]](#) confirmed that further archaeological investigations undertaken in 2024, included archaeological trial trenching in accordance with a WSI agreed with LCC. The applicant considered that these had provided confidence in the conclusions of the ES. Further programmed trial trenching would inform the final mitigation strategy. Geoarchaeological works, including boreholes and slit trenches/test pits had also been undertaken in accordance with a WSI prepared in consultation with HE.
- 3.16.51. HE [\[REP2-068\]](#) and LCC [\[REP2-069\]](#) responses to ExQ1 continued to raise concerns relating to the extent of survey work and LCC advised a trenching phase to establish sufficient baseline evidence. LCC recommended wording for an archaeological requirement to secure this. The applicant disagreed with the need for such a requirement [\[REP3-054\]](#) and this matter was discussed at issue specific hearing 3 (ISH3) [\[REP3-057\]](#) where the applicant, LCC and HE agreed to hold further discussions.
- 3.16.52. Following ExQ2 HE 1.2 [\[PD-020\]](#), LCC [\[REP4-133\]](#), HE [\[REP4-134\]](#) and the applicant [\[REP4-107\]](#) confirmed agreement on the amendment of the Onshore Outline WSI for archaeological works and cross referencing with dDCO R17 [\[REP6-008\]](#) in specific regard to further pre-construction archaeological trial trenching works to inform the finalisation of the WSIs and mitigation measures. HE confirmed

that there was no outstanding disagreement between HE and the applicant at this stage. Furthermore, both HE and LCC confirmed that the matter was agreed during ISH5.

- 3.16.53. In the final Statement of Common Ground (SoCG) with LCC [REP5-135], LCC maintained its concerns that the desk-based assessment did not use all available sources, and that sufficient trial trenching must be done to be able to produce an effective fit for purpose mitigation strategy. It states that while LCC and the applicant differ in opinion in respect of the baseline, LCC is comfortable that the wording of the requirement and ongoing liaison between the applicant's archaeologist and LCC's archaeology team is sufficient to secure the protection of assets of archaeological importance within the Order limits.
- 3.16.54. The applicant submitted a final signed SoCG with HE [REP5-134] where all matters related to historic environment were agreed subject to HE continuing to review progress of fieldwork alongside LCC and the agreement post-consent of final WSIs and HE confirmed that "The measures identified in the outline onshore written scheme of investigation for archaeological works are adequate to mitigate potential significant effects identified in Chapter 20: Onshore Archaeology and Cultural Heritage."
- 3.16.55. At the close of the examination the applicant submitted a signed s106 agreement with LCC [AS-040]. This contains heritage measures including an archives contribution and a treasure acquisition contribution to fund reasonable works and measures to deposit and store the archaeological archive and to acquire any treasure found during excavation works.

The ExA's reasoning on the extent of survey work for onshore archaeology.

- 3.16.56. The ExA notes the agreement of all parties to the wording of the Onshore Outline WSI [REP4-088] and dDCO R17 [REP6-008]. The ExA agrees that the extent and approach to archaeological investigations carried out both as part of onshore preparation works and as part of the onshore transmission works are adequately secured via the wording of the Onshore Outline WSI for archaeological works, which is a certified document in schedule 21 of the final dDCO [REP6-008] and under the terms of R17.

Grouping of non-designated farmsteads

- 3.16.57. LCC in its RR [RR-004] and LIR [REP1-053] noted that the Heritage Statement evaluates all assets concerning their setting, including potential visual changes to non-designated farmsteads. It was concerned that assessments for some farmsteads were conducted in groups rather than individually [APP-188] (10.1.31 other non-designated farmsteads) and sought greater detail for each asset.
- 3.16.58. The applicant's response to RRs [PD1-071] cited HE's Good Practice Advice Planning Note 3 (The Setting of Heritage Assets) advice that assessment of impact through setting change needs to be proportionate to the significance of the heritage asset and proportionate to the degree of change. The applicant considered that the grouping of non-designated farmhouses within the vicinity of the cable route reflects the grouping of assets of low importance where potential impacts would be temporary. The applicant considered that this level of assessment is in accordance with best practice and avoids unnecessary repetition. Furthermore, it stated that "in no instance would it be anticipated that farmhouses within the vicinity of the cable route would experience an impact greater than minor adverse effect. There is no

potential for significant effects. The assessment of farmhouses within the vicinity of the cable route is considered sufficient on these grounds.”

- 3.16.59. ExQ2 HE 1.3 [\[PD-020\]](#) asked LCC and HE in light of the applicant's response to set out whether they consider the grouping of assets to be a reasonable and proportionate approach.
- 3.16.60. LCC in response to ExQ2 [\[REP4-133\]](#) and in its final signed SoCG [\[REP5-135\]](#) remained concerned in relation to the adequacy of information provided to allow for a confident determination of impacts and recommended that individual assessments for each farmstead would be the appropriate approach.
- 3.16.61. HE's response to ExQ2 [\[REP4-134\]](#) considered that with regards to potential harm through setting change for farmhouses in the vicinity of the cable route “the grouping of non-designated farmsteads for assessment provides sufficient information for the Secretary of State to have confidence on the effects on the significance of individual heritage assets without these having been assessed individually.”

The ExA's reasoning on the grouping of non-designated farmsteads

- 3.16.62. The ExA notes LCC's outstanding concern in relation to the grouping of non-designated farmsteads. The ExA agrees with the applicant and HE and considers that the grouping of assets of low importance where potential impacts would be temporary, and which would experience no greater impact than minor adverse effects is a reasonable and proportionate approach.

Conclusions

- 3.16.63. On the basis of the evidence and the proposed mitigation that would be secured in the final dDCO [\[REP6-008\]](#), which is included in the Recommended DCO, the ExA considers that the proposed development would have no likely significant effects on both the onshore and offshore historic environment.
- 3.16.64. Furthermore, there would be no substantial harm from the construction or operation of the proposed development, either physically or on the setting of any designated heritage assets. The proposed development would not result in the loss of any designated or non-designated assets, and should new assets be found in the form of archaeological remains, the ExA is satisfied that there would be measures in place to ensure that they were adequately protected or excavated and recorded.
- 3.16.65. The ExA is content that the applicant has sought to identify and assess the particular significance of any heritage asset that may be affected including the setting of the heritage asset in accordance with NPS EN1 paragraph 5.9.22 to 5.9.36.
- 3.16.66. The ExA is satisfied that the applicant has secured methodologies to record and advance understanding of the significance of heritage assets, proportionate to the degree of significance of the asset in accordance with an agreed and secured WSI as required by NPS EN1 paragraph 5.9.16 to 5.9.20.
- 3.16.67. The ExA further notes that the applicant has put in place requirements to secure appropriate identification and treatment of potential assets discovered during construction in accordance with NPS EN-1 paragraph 5.9.21.

- 3.16.68. The ExA is satisfied that the design of the proposed development has considered known heritage assets and their status, in accordance with NPS EN-3, paragraph 2.5.2.
- 3.16.69. Accordingly, based on its examination, the ExA considers that policy requirements with regard to the historic environment and archaeology both onshore and offshore in NPS EN-1 and NPS EN-3, and relevant marine plans as well as local policies and all other relevant legislation have been met and there are no other important or relevant considerations.
- 3.16.70. Taking into account the applicant's identified residual adverse effects both offshore and onshore, the ExA attaches a little weight to historic environment matters against the making of the Order within the overall [planning balance](#).

3.17. ONSHORE WATER ENVIRONMENT

Introduction

- 3.17.1. This section assesses the effects of the proposed development on the water environment including flood risk, water quality, hydrology and hydrogeology.
- 3.17.2. In its consideration of water environment, the Examining Authority (ExA) has had regard to:
- the Overarching National Policy Statement for Energy EN-1 (NPS EN-1), as set out in sections 4.10, 5.8 and 5.16
 - National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3), as set out in section 2.8
 - National Policy Statement for Electricity Networks Infrastructure EN-5 (NPS EN-5), as set out in section 2.3
 - the National Planning Policy Framework (NPPF)
 - Local Impact Reports (LIRs) submitted by Lincolnshire County Council (LCC) and a joint LIR from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC)
 - the South East Lincolnshire Local Plan 2011-36
 - the East Lindsey Local Plan Core Strategy 2018
 - the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
 - the Environmental Permitting (England and Wales) Regulations 2016
 - the Flood and Water Management Act 2010
 - the Environment Act 2021
 - any matters prescribed in relation to the proposed development
 - any other important and relevant matters
- 3.17.3. Paragraph 5.8.15 of NPS EN-1 sets out the minimum requirements that should be addressed in flood risk assessments, such as the risk of flooding caused by the project and the risk of flooding to the project, incorporating the anticipated effects of climate change, and including detailed proposals for managing and discharging surface water from the site using sustainable drainage systems. Additionally, as outlined in paragraph 5.8.6 of NPS EN-1, it is imperative that flood risk from all sources is considered at every stage of the planning process to avoid inappropriate development in areas at risk of flooding.

The applicant's case

- 3.17.4. The applicant submitted several relevant documents in relation to the water environment to accompany the application, including the following:
- ES Chapter 24 Onshore Hydrology, Hydrogeology and Flood Risk [\[APP-079\]](#)
 - ES Chapter 24 Onshore Hydrology, Hydrogeology and Flood Risk Figures [\[APP-115\]](#)
 - ES Chapter 24 Appendix 1 Groundwater Risk Assessment [\[APP-210\]](#)
 - ES Chapter 24 Appendix 2 Flood Risk Assessment Onshore ECC & 400 kilovolt (kV) cable corridor [\[APP-211\]](#) updated by [\[AS1-068\]](#) and again by [\[PD1-036\]](#)
 - ES Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation [\[APP-212\]](#) updated in eight parts by [\[AS1-070\]](#), [\[AS1-072\]](#), [\[AS1-074\]](#), [\[AS1-076\]](#), [\[AS1-078\]](#), [\[AS1-080\]](#), [\[AS1-082\]](#), [\[AS1-084\]](#)
 - ES Chapter 3 Appendix 2 Onshore Crossing Schedule [\[APP-143\]](#) updated by [\[AS1-062\]](#) and again by [\[PD1-034\]](#)
 - ES Chapter 8, Appendix 1 Water Framework Directive [\[APP-153\]](#)

- Outline Code of Construction Practice [\[APP-268\]](#) updated by [\[PD1-038\]](#)
- Outline Pollution Prevention and Emergency Incident Response Plan [\[APP-272\]](#)
- Outline Surface Water Drainage Strategy [\[APP-273\]](#)
- Outline Operational Drainage Management Plan [\[APP-286\]](#)

3.17.5. The applicant notes that the Environmental Statement (ES) Chapter 24 [\[APP-079\]](#), should be read with particular reference to:

- ES Chapter 3 Project Description [\[APP-058\]](#)
- ES Chapter 5 Environmental Impact Assessment Methodology [\[APP-060\]](#)
- ES Chapter 8 Marine Water and Sediment Quality [\[APP-063\]](#) updated by [\[AS1-038\]](#)
- ES Chapter 21 Onshore Ecology [\[APP-076\]](#)
- ES Chapter 23 Geology and Ground Conditions [\[APP-078\]](#)

Scope and methodology

3.17.6. ES Chapter 24 covers the onshore elements from Mean High Water Springs to the onshore grid connection point. The assessment considers a 2 kilometre (km) buffer as the zone of influence on hydrological receptors around the Order limits, as shown in figure 24.1 [\[APP-115\]](#). This includes the Onshore Substation (OnSS) and onshore Export Cable Corridor (ECC), as well as landfall, access routes, and temporary construction compound areas. A summary of the consultation undertaken by the applicant is documented in table 24.1 [\[APP-079\]](#), and the data sources used in the ES are listed in section 24.4.2.

3.17.7. Due to the size of the onshore part of the proposed development, the study area is divided into 14 ECC segments, as shown in figure 24.1 [\[APP-115\]](#). The Surface Water Operational Catchments are illustrated in figure 24.2 [\[APP-115\]](#) and the Internal Drainage Board (IDB) Administrative Boundaries are depicted in figure 24.3. Furthermore, the baseline environment of each ECC segment is categorised as described in section 24.4.3 [\[APP-079\]](#).

3.17.8. Baseline sensitivity values assigned to potential receptors are presented in table 24.17 [\[APP-079\]](#). A description of the impacts scoped in and out of the assessment during construction, operation, maintenance, and decommissioning is provided in section 24.5.1.

3.17.9. The Maximum Design Scenario (MDS) considers the potential effects of the onshore ECC, OnSS, and landfall on flood risk or changes in water quality during all phases of the proposed development, as detailed in table 24.18 [\[APP-079\]](#).

3.17.10. The criteria for assessing the significance of effects, including sensitivity and magnitude, are outlined in table 24.20 and table 24.21 [\[APP-079\]](#), with sensitivity levels and impact magnitudes ranging from negligible to high.

The applicant's assessment of effects and its proposed mitigation

3.17.11. The applicant's proposed embedded mitigation measures relevant to the water environment are summarised in table 24.19 of ES Chapter 24 [\[APP-079\]](#). These measures include trenchless drilling crossing techniques for all Environment Agency (EA) main rivers and IDB owned or maintained drains. Additional mitigation specific to water quality and flood risk includes the Outline Pollution Prevention and Emergency Incident Response Plan [\[APP-272\]](#), the Outline Surface Water Drainage Strategy, and the Outline Operational Drainage Management Plan.

- 3.17.12. ES Chapter 24 [\[APP-079\]](#) assessed the effects on water quality and flood risk for potential hydrological receptors, including the tidal and fluvial floodplain, various watercourses (main rivers and ordinary watercourses or drains), groundwater, and the near-shore tidal waters of the North Sea. These effects have been assessed by the applicant as ranging from minor adverse to negligible. The applicant concludes that, with the implementation of mitigation measures, including those specified in the Outline Code of Construction Practice (Outline CoCP) [\[APP-268\]](#), the effects of the proposed development on water quality and flood risk during construction, operation, and decommissioning is not considered significant in EIA terms.
- 3.17.13. Table 24.24 of ES Chapter 24 [\[APP-079\]](#) summarises the residual effects on the water environment during the construction of the landfall, trenchless drilling, onshore ECC, and OnSS. It also details the residual effects during the operation and maintenance of the OnSS, onshore ECC permanent infrastructure, landfall, and trenchless crossings, as well as the potential residual effects during the decommissioning of the OnSS and onshore ECC.
- 3.17.14. In response to concerns raised by Natural England (NE) in its Section 42 response to the Preliminary Environmental Information Report regarding the potential impacts on the site's hydrology, specifically the quantity and quality of water feeding the site, the applicant provided a Groundwater Risk Assessment (GWRA) [\[APP-210\]](#) for the proposed development as appendix 1 to ES Chapter 24. This assessment evaluates the outstanding risk to the Sea Bank Clay Pits Site of Special Scientific Interest (SSSI) and other identified receptors within the Order limits, following the EA's guidance on completing groundwater risk assessments and Hydrogeological Impact Appraisals.
- 3.17.15. The applicant's GWRA identifies two receptors potentially impacted by the onshore construction works: the Sea Banks Clay Pit SSSI and the private water supply at Bristol Farm [\[APP-210\]](#). According to the applicant's assessment, both are located on clay-rich Tidal Flat deposits, which significantly limit hydraulic connection, resulting in a low potential effect on these receptors.
- 3.17.16. Flood risks from various sources, including fluvial, tidal, surface water, groundwater, sewers, water mains and artificial sources are assessed in the ES, identifying these sources as potentially significant during the construction, operation and maintenance phases of the proposed development [\[AS1-070\]](#) [\[PD1-036\]](#). The Flood Risk Assessment (FRA) for the onshore ECC and 400kV cable corridor and OnSS provides an overview of the potential flood risks to and from the onshore elements of the proposed development. The applicant confirms that the proposed OnSS and onshore ECC and 400kV cable corridor are situated in Flood Zones 2 and 3a [\[AS1-070\]](#) and [\[PD1-036\]](#). Additionally, the applicant asserts that the ECC infrastructure is unlikely to face flood risks because the electricity cables would be installed underground, making them resistant to flooding.
- 3.17.17. The detailed hydraulic modelling report (Noise Bund Hydraulic Modelling Report) [\[PD1-075\]](#) assesses the flood risk effects associated with installing a temporary noise bund at landfall during the construction phase of the proposed development. The hydraulic modelling is conducted for both baseline and proposed development scenarios, focusing on overtopping and breach of defences, with two breach scenarios analysed: Breach 1, involving the breach of coastal dunes, and Breach 2, involving the breach of both coastal dunes and Roman Bank.
- 3.17.18. As outlined in section 24.8 of [\[APP-079\]](#), the applicant used the MDS described in table 24.23 for the proposed National Grid Substation and concluded that there

would be no significant cumulative impacts on hydrology, hydrogeology, and flood risk during either the construction or operation phases of the proposed development. Additionally, the applicant determined that there would be no potential for significant transboundary effects related to hydrology, hydrogeology, and flood risk, as mentioned in section 24.10 [\[APP-079\]](#).

- 3.17.19. The applicant states in section 24.9 [\[APP-079\]](#) that, given the localised nature of the effects, there is no potential for significant inter-related impacts on any offshore receptors. With mitigation measures in place, impacts on water quality from spillages or sedimentation during construction are expected to be negligible. Therefore, the applicant concludes that there are no significant inter-related effects between offshore and onshore parts of the proposed development with regard to hydrology, hydrogeology, and flood risk.

Issues considered during the examination

- 3.17.20. During the course of the examination, the applicant submitted revisions to the ES documents, as follows:
- ES Chapter 24 Onshore Hydrology, Hydrogeology and Flood Risk [\[REP4a-017\]](#)
 - ES Chapter 24 Appendix 1 Groundwater Risk Assessment [\[REP4a-058\]](#)
 - ES Chapter 24 Appendix 2 Flood Risk Assessment Onshore ECC & 400kV cable corridor [\[REP4-022\]](#), [\[REP4-024\]](#)
 - ES Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation [\[REP4-029\]](#), [\[REP4-028\]](#)
- 3.17.21. For clarity, the overall conclusion regarding significant effects on the onshore water environment remains unchanged from that presented at the start of the examination [\[APP-079\]](#).
- 3.17.22. Based on comments raised by interested parties (IPs) and on the ExA's review of the application documents, the key issues considered during the examination were:
- Groundwater Risk Assessment and compliance with Water Framework Directive (WFD)
 - Flood risk, Sequential Test and Exception Test

Groundwater Risk Assessment and compliance with WFD

- 3.17.23. The EA reiterated NE's concern in its relevant representation (RR) [\[RR-018\]](#) about the GWRA under the Sea Bank Clay Pits SSSI and requested the applicant to address the potential for saline water intrusion into freshwater, conduct a survey for Bristol Farms Private Domestic Supply, and perform risk assessments prior to trenchless cable installations.
- 3.17.24. In response [\[PD1-071\]](#), the applicant agreed to revise the Groundwater Risk Assessment and committed to submitting a Water Quality Management and Mitigation Plan (WQM&MP), which the EA acknowledged with satisfaction in their written representation (WR) [\[REP1-048\]](#). Based on the EA's WR [\[REP1-048\]](#), the ExA, as part of their First Written Questions (ExQ1) [\[PD-013\]](#) Q1WE1.2, requested a response regarding the method to secure the revised GWRA. The applicant responded [\[REP2-051\]](#) that the GWRA would be updated in the pre-construction phase, would inform the WQM&MP, and would be secured through the Outline CoCP.

- 3.17.25. The EA in its RR [\[RR-018\]](#) mentions the WFD assessment for the onshore ECC and 400kV cable corridor crossing the Witham and Welland Estuaries and further states that “it is generally satisfied with the applicant’s approach and conclusions, noting that these sections of the ECC activity are unlikely to result in a deterioration at the water body scale or jeopardize the attainment of water body objectives. Significant impacts to protected areas within these WFD waterbodies are also unlikely.”

ExA’s reasoning

- 3.17.26. The EA [\[REP3-064\]](#) acknowledges that the inclusion of the Water Quality Management and Mitigation Plan (WQM&MP) as part of the Outline CoCP includes a commitment to produce the updated GWRA in the pre-construction phase, which would inform the scope of the WQM&MP. The ExA is content that Groundwater Risk Assessment matters can be appropriately managed through the WQM&MP as part of the Outline CoCP, as secured by requirement (R) 18(2) of the draft Development Consent Order (dDCO) [\[AS-042\]](#).
- 3.17.27. The EA confirmed in its RR [\[RR-018\]](#) that it is satisfied with the WFD assessment provided [\[APP-153\]](#), noting that all potential concerns had been adequately addressed in the WFD assessment [\[REP1-055\]](#). The ExA agrees with the EA's assessment, confirming compliance with WFD for onshore water environment matters and meeting the requirements of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

Flood risk, Sequential Test and Exception Test

- 3.17.28. The applicant provides justification for the Sequential Test and Exception Test in section 24.6.1 and 24.6.2 [\[PD1-036\]](#) concerning the onshore ECC and 400kV cable corridor, and in section 24.9.1 and 24.9.2 [\[AS1-070\]](#) regarding FRA for the OnSS.
- 3.17.29. Paragraph 5.8.21 of NPS EN-1 states: “*The Sequential Test ensures that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account. Where it is not possible to locate development in low-risk areas, the Sequential Test should go on to compare reasonably available sites with medium risk areas and then, only where there are no reasonably available sites in low and medium risk areas, within high-risk areas.*” The application of the Sequential and Exception Tests is detailed in the Planning Practice Guidance on ‘Flood risk and coastal change’, published by the Ministry of Housing, Communities and Local Government, last updated on 25 August 2022. The applicant stated in section 24.6 [\[PD1-036\]](#) [\[AS1-070\]](#) that the majority of the OnSS lies within Flood Zones 2 and 3a and the onshore ECC lies within Flood Zone 3a and is considered ‘Essential Infrastructure’. Site selection for key components of the proposed development followed a structured, six-stage sequential process, informed by engineering feasibility, environmental assessment, and stakeholder consultation. Although presented linearly for clarity, the applicant explained that the process was iterative in nature, with decisions made at various stages based on the best available information. The Sequential Test and site selection process are further addressed in [\[APP-059\]](#), with an erratum at [\[PD1-074\]](#) and the final version submitted as [\[REP5-013\]](#).
- 3.17.30. The first part of the Exception Test, as set out in NPS EN-1, requires that: “*it must be demonstrated that the project provides wider sustainability benefits to the community that outweigh flood risk.*”. The first part of the Exception Test is set out in section 24.6.2.1 [\[PD1-036\]](#) and section 24.9.2.1 [\[AS1-070\]](#) of the FRA. The applicant concludes that the test would be passed for the following reasons:

“The proposed development is a Nationally Significant Infrastructure Project (NSIP), which is a 1.5 Gigawatt (GW) offshore windfarm off the Lincolnshire Coast. Once completed, it will be one of the UK's largest offshore windfarms.

It is anticipated to generate renewable electricity equivalent to the annual electricity consumption of over 1.6 million households and will play a critical role in achieving the UK Government's ambition to deliver 50 GW of offshore wind by 2030 and to achieve net zero by 2050.

The proposed development will displace the equivalent of nearly 2 million tonnes of CO₂ emissions per year of operation through the generation of renewable electricity.”

- 3.17.31. The second part of the Exception Test, as set out in paragraph 5.8.11 of NPS EN-1, requires that: *“the applicant must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.”* The applicant addresses this in section 24.6.2.2 [\[PD1-036\]](#) for the onshore ECC and 400kV cable corridor and section 24.9.2.2 [\[AS1-070\]](#) for the OnSS.
- 3.17.32. For the ECC, the applicant's FRA concludes that the corridor would not be at risk of flooding during operation and would not increase flood risk elsewhere. Temporary construction-phase flood risks are also identified by the applicant and are proposed to be managed through mitigation measures outlined in section 24.7.1 of the FRA [\[AS1-068\]](#). For the OnSS, the applicant's FRA [\[AS1-070\]](#) includes hydraulic modelling of a breach scenario under the 0.1% Annual Exceedance Probability (AEP) event with climate change, which identified minor, isolated increases in flood hazard. The applicant considers these to be anomalies within the model rather than actual effects. Even if treated as genuine, the applicant considers the risk to be residual and limited to a breach of maintained flood defences. The FRA [\[AS1-070\]](#) states that sensitive equipment would be raised above the 0.1% AEP plus climate change flood level, with an additional 300mm freeboard, through a combination of site raising, plinth mounting, and floor level setting. n this basis, the applicant concludes that both the ECC and OnSS would remain safe for their operational lifetimes, would not increase flood risk elsewhere, and would, where possible, reduce flood risk overall — thereby satisfying the second part of the Exception Test.
- 3.17.33. The EA outlined its comments regarding the FRA in sections 13.3 and 13.4 of the RR [\[RR-018\]](#), issuing a holding objection to the FRA for the onshore ECC and 400kV cable corridor due to insufficient information to determine if it meets the Exception Test, and for the OnSS due to inadequate hydraulic modelling, as per paragraph 5.8.11 of NPS EN-1. This is reflected in the Principal Areas of Disagreement with the applicant provided by the EA [\[PD1-104\]](#).
- 3.17.34. The EA raised several concerns regarding the FRA for the onshore ECC and 400kV cable corridor and OnSS [\[RR-018\]](#). These included the need for improved hydraulic modelling, appropriate climate change allowances over the project's lifetime, and assessment of residual flood risk using hazard mapping. The EA also requested further detail on the impacts of land raising for the noise bund and bunding proposals. Some of these concerns are reflected in the Principal Areas of Disagreement with the applicant [\[PD1-104\]](#).
- 3.17.35. In response to the EA's concerns — including those related to hydraulic modelling, climate change allowances, and floodplain impacts — the applicant updated the FRA for both the OnSS [\[AS1-070\]](#) and the onshore ECC and 400kV cable corridor [\[PD1-036\]](#). These updates were submitted alongside an applicant's response to the

EA [\[PD1-071\]](#). The EA provided further comments in their written representation at deadline (D1) [\[REP1-048\]](#), continuing engagement with the applicant to resolve outstanding issues.

3.17.36. As the examination progressed, the issues regarding the FRA for the onshore ECC and 400kV cable corridor and OnSS were resolved through the submission of updated assessments and ongoing engagement with the EA. The applicant provided additional hydraulic modelling and extended the climate change assessment period to 75 years for the OnSS, in response to the EA requests. For the ECC and 400kV cable corridor, the applicant clarified construction-phase flood risks and proposed mitigation measures. These updates, submitted at D4, for onshore ECC and 400kV cable corridor [\[REP4-021\]](#) [\[REP4-024\]](#) and for OnSS [\[REP4-027\]](#) [\[REP4-028\]](#), addressed the EA's concerns regarding the adequacy of the Exception Test under paragraph 5.8.11 of NPS EN-1. Consequently, the EA removed its holding objection at D5 [\[REP5-133\]](#), confirming that the revised FRA satisfied the requirements of the Exception Test.

3.17.37. While investigating the FRA, the ExA in issue specific hearing 5 (ISH5) [\[EV10-002\]](#) asked for an update on its status. The EA and the applicant shared that they were close to resolving the issues related to the FRA and LCC, as the Lead Local Flood Authority (LLFA), acknowledged having no issues with regard to the FRA. Subsequently, at D6, the Statement of Common Ground (SoCG) between the EA and the applicant [\[REP6-085\]](#), along with the Final Principal Areas of Disagreement Statement [\[REP6-127\]](#), confirmed that the EA has no concerns regarding the application of the Exception Test and the FRA.

ExA's reasoning

3.17.38. NPS EN-1, paragraphs 5.8.13 and 5.8.14 state that applications for energy projects of 1 hectare or greater in Flood Zone 1 and all proposals located in Flood Zones 2 and 3 in England should be accompanied by an FRA. This FRA should identify and assess the risks of all forms of flooding to and from the project and demonstrate how these flood risks would be managed, taking climate change into account. The Secretary of State should not consent development unless they are satisfied that the Sequential Test requirements have been met (NPS EN-1 2024, paragraph 5.8.36).

3.17.39. Given the evidence provided by the applicant and the confirmations from LCC as the LLFA and the EA that they are satisfied with the applicant's FRA which includes details of the Sequential Test, the ExA is content that a sequential approach to flood risk has been adopted. The ExA is satisfied that the locations for the landfall, ECC, and OnSS have been chosen to minimise flood risk from all sources as much as possible, considering the available alternatives and technical constraints. Therefore, the ExA concludes that the Sequential Test has been satisfied.

3.17.40. The Exception Test, as set out in NPS EN-1, comprises two parts. The first part requires that: *"it must be demonstrated that the project provides wider sustainability benefits to the community that outweigh the flood risk"* (paragraph 5.8.10). The ExA is satisfied that the proposed development would provide wider sustainability benefits in the form of renewable energy generation and improvements to energy security, which would outweigh the flood risk. Therefore, the ExA concludes that the first part of the Exception Test has been passed.

3.17.41. The second part of the Exception Test requires that: *"the applicant must demonstrate that the development will be safe for its lifetime taking account of the*

vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall" (paragraph 5.8.11). The Outline Surface Water Drainage Strategy [APP-273] is secured through R18 of the final dDCO [AS-042]. Additionally, a flood management and response plan, along with an outline pollution prevention and emergency incident response plan, are included in the Outline CoCP [REP6-056]. The applicant's updated FRA for the onshore ECC and 400kV cable corridor [REP4-022], [REP4-024], and for the OnSS [REP4-027], [REP4-028], provides evidence that the proposed development would be safe for its operational lifetime and would not increase flood risk elsewhere. These updates addressed concerns raised by the EA, which subsequently removed its holding objection at D5 [REP5-133]. Accordingly, the ExA considers that the second part of the Exception Test has also been satisfied.

Conclusions

- 3.17.42. The applicant's SoCG with the EA [REP6-085] confirms that all points of discussion are resolved. Additionally, the final SoCG with LCC, the LLFA [REP5-135], indicates that all matters concerning the water environment, including those raised in LCC's LIR [REP1-053], are agreed upon between the applicant and LCC. At the close of the examination, the ExA was satisfied that the applicant has adequately addressed all matters related to the water environment

- 3.17.43. The ExA is content that both the Sequential Test and the Exception Test have been met, and consideration has been given to the application of climate change allowances for peak river flow and peak rainfall. The ExA also concludes that the proposed development would comply with the WFD.

- 3.17.44. The ExA is satisfied that R18 of the final dDCO [AS-042] provides security to ensure that the final CoCP would be in accordance with the Outline CoCP, and that R15 contains adequate embedded measures for operational drainage management and emergency flood response, including flood risk, drainage management, protection of water resources and water quality, and emergency response. Additionally, R16 of the final dDCO [AS-042] adequately secures measures to address any potential groundwater contamination. The final CoCP would need to be approved by LCC, following consultation with the relevant planning authority, the EA, the Statutory Nature Conservation Bodies, the LLFA, and Anglian Water Services Limited concerning the surface water drainage strategy.

- 3.17.45. The ExA concurs that the proposed development satisfies the relevant policy tests concerning flood risk and the onshore water environment as set out in NPS EN-1, NPS EN-3, and NPS EN-5, and also accords with the relevant parts of the NPPF. In addition, the proposed development complies with the flooding and water policies contained in the South East Lincolnshire Local Plan 2011–2036 and the East Lindsey Local Plan Core Strategy 2018. The ExA further considers that the proposed development aligns with other applicable national and local policies and strategies, as well as all other relevant legislation in relation to the onshore water environment, and that there are no other important or relevant considerations.

- 3.17.46. The ExA concludes that the Recommended Development Consent Order (rDCO) and the associated control documents certified by rDCO would effectively mitigate the negative effects of the proposed development on the water environment. However, the ExA notes that table 24.24 [REP4a-017] identifies the likely effects on the water environment as either negligible or minor adverse. While these are not significant in EIA terms, they nonetheless carry a small degree of harm and

therefore weigh a little against the proposed development in the overall [planning balance](#).

3.18. ONSHORE TRAFFIC AND TRANSPORT

Introduction

- 3.18.1. This section assesses the effects of the proposed development on onshore traffic and transport encompassing the area from mean low water springs (MLWS) at landfall, along the onshore Export Cable Corridor (ECC), and at the Onshore Substation (OnSS), across the construction, operation and maintenance, and decommissioning phases. Any offshore traffic and transport issues are addressed separately in the Shipping and Navigation section.
- 3.18.2. Additionally, in its consideration of traffic and transport, the Examining Authority (ExA) has had regard to:
- the Overarching National Policy Statement for Energy EN-1 (NPS EN-1), as set out in section 5.14
 - National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3)
 - National Policy Statement for Electricity Networks Infrastructure EN-5 (NPS EN-5)
 - the National Planning Policy Framework (NPPF)
 - Local Impact Report (LIR) submitted by Lincolnshire County Council (LCC) and a joint LIR from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC)
 - the South East Lincolnshire Local Plan 2011-36
 - the East Lindsey Local Plan Core Strategy 2018
 - any matters prescribed in relation to the proposed development
 - any other important and relevant matters

The applicant's case

- 3.18.3. The applicant submitted a number of relevant documents in relation to traffic and transport to accompany the application, including the following:
- Environmental Statement (ES) Chapter 27 Onshore Traffic and Transport [[APP-082](#)] superseded by [[AS1-052](#)]
 - ES Chapter 27 Onshore Traffic and Transport Figures [[APP-118](#)] superseded by [[AS1-061](#)]
 - ES Chapter 27 Appendix 1 Transport Assessment [[APP-119](#)] superseded by [[AS1-086](#)]
 - ES Chapter 27 Appendix 1 Transport Assessment Annex A Special Order AIL Swept Path Analysis [[APP-218](#)]
 - ES Chapter 27 Appendix 1 Transport Assessment Annex B DfT Traffic Data [[APP-219](#)] superseded by [[AS1-088](#)]
 - ES Chapter 27 Appendix 1 Transport Assessment Annex C Automatic Traffic Count Data [[APP-120](#)] superseded by [[AS1-089](#)]
 - ES Chapter 27 Appendix 1 Transport Assessment Annex D Personal Injury Accident Data [[APP-220](#)]
 - ES Chapter 27 Appendix 1 Transport Assessment Annex E Construction Access Locations [[APP-121](#)]
 - ES Chapter 27 Appendix 1 Transport Assessment Annex F Construction Access General Arrangement Drawings [[APP-221](#)] superseded by [[AS1-090](#)]
 - ES Chapter 27 Appendix 1 Transport Assessment Annex G Core and Local Construction Vehicle Access Routes [[APP-222](#)] superseded by [[AS1-091](#)]

- ES Chapter 27 Appendix 1 Transport Assessment Annex H Haul Road Crossings [\[APP-223\]](#)
- ES Chapter 27 Appendix 1 Transport Assessment Annex I Public Rights of Way [\[APP-224\]](#)
- ES Chapter 27 Appendix 1 Transport Assessment Annex J Trip Generation Calculations [\[APP-225\]](#) superseded by [\[AS1-092\]](#)
- ES Chapter 27 Appendix 1 Transport Assessment Annex K Daylight Hours Availability [\[APP-226\]](#) superseded by [\[AS1-093\]](#)
- ES Chapter 27 Appendix 1 Transport Assessment Annex L Workforce Gravity Model [\[APP-227\]](#)
- ES Chapter 27 Appendix 1 Transport Assessment Annex M Swept Path Analysis Checks [\[APP-228\]](#)
- ES Chapter 27 Appendix 1 Transport Assessment Annex N Passing Place Proposals [\[APP-229\]](#) superseded by [\[AS1-094\]](#)
- Onshore Crossing Plan [\[APP-022\]](#) superseded by [\[AS1-021\]](#) and updated at PD1 [\[PD1-021\]](#)
- Onshore Crossing Schedule [\[PD1-034\]](#)
- Public Rights of Way Plan [\[PD1-013\]](#)
- Traffic Regulation Order Plan [\[APP-024\]](#) superseded by [\[AS1-023\]](#) and updated at PD1 [\[PD1-023\]](#)
- Outline Construction Traffic Management Plan [\[APP-289\]](#)
- Outline Travel Plan [\[APP-290\]](#)
- Outline Public Access Management Plan [\[APP-291\]](#) updated at PD1 [\[PD1-062\]](#)
- Outline Code of Construction Practice [\[APP-268\]](#) updated at PD1 [\[PD1-038\]](#)

3.18.4. ES Chapter 27 [\[AS1-052\]](#) cross-references several other chapters that provide relevant context for the assessment of effects on onshore traffic and transport. These include:

- ES Chapter 3 Project Description [\[APP-058\]](#)
- ES Chapter 19 Onshore Air Quality [\[APP-074\]](#) superseded by [\[AS1-046\]](#)
- ES Chapter 26 Onshore Noise and Vibration [\[APP-081\]](#)

Scope and methodology

3.18.5. In ES Chapter 27 [\[AS1-052\]](#), the applicant defines the study area for the onshore traffic and transport assessment using a segmented approach based on the Order Limits. The onshore ECC, which extends approximately 70km from the landfall at MLWS to the Surfleet Marsh OnSS and the National Grid Substation (NGSS) connection area, is divided into 14 segments to facilitate the assessment, as detailed in table 27.3 of the ES [\[AS1-052\]](#).

3.18.6. The applicant in ES Chapter 27 [\[AS1-052\]](#), identifies the core and local access routes that construction vehicles would use to access the onshore ECC, OnSS, and the 400 kilovolt (kV) cable corridor to the NGSS connection area. These routes are shown in figure 27.1 [\[AS1-061\]](#) and detailed in table 27.4 of the ES [\[AS1-052\]](#).

3.18.7. The applicant states in ES [\[AS1-052\]](#) that although construction traffic will use parts of the wider highway network, including the Strategic Road Network, traffic volumes are expected to dissipate sufficiently such that no significant impacts are anticipated. As a result, these wider routes are scoped out of the assessment, a position agreed with National Highways as described in paragraph 25 of ES Chapter 27 [\[AS1-052\]](#).

- 3.18.8. The applicant explains in ES Chapter 27 [\[AS1-052\]](#) that enabling access to the ECC would be required to undertake early works such as ground investigations, facilitating construction access, pre-construction drainage, and vegetation clearance. These activities would make use of existing access points, typically farm tracks, which the applicant considers suitable with minimal or no improvement. According to the applicant, their use would be intermittent, short term, and limited to light vehicles, and therefore the applicant has not formally assessed these accesses in the ES on the basis that the associated impacts would be limited in scale and duration. Table 27.5 of the ES outlines a maximum of approximately 100 to 150 enabling accesses, each used for up to two months.
- 3.18.9. The applicant sets out in ES Chapter 27 [\[AS1-052\]](#) the proposed construction access locations for landfall, the ECC, the OnSS, and the 400kV cable corridor to the NGSS connection area. These access locations are listed in table 27.6 of the ES [\[AS1-052\]](#) and are assigned to specific ECC segments, with directional information indicating whether access is towards the OnSS (positive) or towards landfall (negative). The applicant notes that some access points may also serve temporary construction compounds.
- 3.18.10. In addition to construction access locations, the applicant identifies the haul road crossings, as listed in table 27.7 of the ES [\[AS1-052\]](#) and shown in figure 27.3 [\[AS1-061\]](#). These crossings are located throughout the ECC route, and the applicant confirms that trenchless crossing techniques would be used at all adopted highway links to avoid the need for temporary lane or road closures, thereby minimising disruption to road users.
- 3.18.11. The applicant outlines in ES [\[AS1-052\]](#) that the traffic and transport assessment is informed by a combination of existing baseline data and new survey data, including a desktop appraisal using Google Earth, Annual Average Daily Traffic (AADT) flows and speed data from the Department for Transport (DfT), STATS19 accident data from LCC, and the LCC online Public Rights of Way (PRoW) map. In addition, automatic traffic counters were deployed at five locations in August 2022 and at 86 locations across the study area during October 2022, February/March 2023, and December 2023. The applicant considers that this data collection approach captures seasonal variations and provides a robust basis for assessing traffic conditions across the study area.
- 3.18.12. The applicant states in ES [\[AS1-052\]](#) that the assessment of traffic and transport effects associated with the proposed development has been undertaken with reference to several key guidance documents. These include:
- the Ministry for Levelling Up, Housing and Communities (MHCLG) Planning Practice Guidance (2014)
 - the Institute of Environmental Management and Assessment (IEMA) Guidelines for Environmental Assessment of Road Traffic (GEART) 1993
 - the updated IEMA Guidelines for Environmental Assessment of Traffic and Movements (GEATM) 2023
 - the Design Manual for Roads and Bridges (DMRB) LA 112 on Population and Human Health
- 3.18.13. According to the applicant, the updated IEMA guidance places greater emphasis on professional judgement rather than fixed percentage thresholds, and both the older and newer IEMA guidelines were considered in the assessment. The MHCLG guidance is also used to inform the preparation of the transport assessment (TA)

and travel plan, which the applicant considers consistent with the requirements of NPS EN-1.

- 3.18.14. As set out in paragraph 68 of ES Chapter 27 [\[AS1-052\]](#), the applicant identifies the following potential environmental effects as most likely to arise from changes in traffic movements during the construction phase of the proposed development, and scopes them into the assessment:
- driver severance and delay
 - community severance
 - impacts on vulnerable road users and road safety
 - pedestrian amenity
 - dust and dirt on the highway
 - effects from the movement of abnormal indivisible loads (AILs)
- 3.18.15. In relation to driver severance and delay, the applicant explains in ES Chapter 27 [\[AS1-052\]](#) that, consistent with GEATM guidance, such effects are only likely to be significant where the surrounding highway network is already operating at or near capacity. The applicant notes that although the A16 through Boston was highlighted during consultation with LCC for consideration, LCC did not identify any specific junctions requiring capacity assessments and LCC confirmed that no such assessments were necessary to support this proposed development.
- 3.18.16. In line with GEATM and DMRB LA 112 guidance, the applicant considers both percentage changes in traffic flow and absolute traffic volumes when assessing severance, while emphasising that local context is critical to determining the significance of any such effects.
- 3.18.17. In ES [\[AS1-052\]](#), the applicant states that the assessment of impacts on vulnerable road users and road safety draws on guidance from GEART and GEATM, both of which emphasise the role of professional judgement in evaluating risks associated with changes in traffic character, such as increased Heavy Goods Vehicles (HGV) movements. To inform the assessment, the applicant states that it has undertaken a review of personal injury accident data within the onshore highway study area to identify locations it considers sensitive to traffic changes, based on above-average 2022 national accident rates.
- 3.18.18. As set out in paragraph 81 of ES Chapter 27 [\[AS1-052\]](#), the applicant adopts GEATM's definition of pedestrian amenity as the "*relative pleasantness of a journey*," and notes that, in its view, significant changes may occur where traffic flows are halved or doubled, while emphasising that local conditions are critical in determining the significance of such changes.
- 3.18.19. According to the applicant in ES [\[AS1-052\]](#), AILs are defined as vehicles and loads that exceed specific thresholds such as a weight over 44,000 kilograms (kg), a width over 2.9 metres (m), or a rigid length over 18.65m and include Special Order AILs, which exceed 150,000kg in total weight, 6.1m in width, or 30m in rigid length. The applicant indicates that non-Special Order AILs would be used for transporting the cable drums, while Special Order AILs would be required for delivering components to the OnSS.
- 3.18.20. As set out in ES [\[AS1-052\]](#), the applicant informs the assessment of potential effects of the proposed development on users of PRoWs using criteria from DMRB LA 112 and GEATM. Where PRoWs intersect with highway links, the applicant notes that while DMRB LA 112 defines receptor sensitivity, it does not define

magnitude of impact; therefore, thresholds from GEATM relating to pedestrian severance have been applied. The applicant refers to DfT thresholds, 30%, 60%, and 90% increases in traffic flow, as indicative of slight, moderate, and substantial changes in severance, respectively, while acknowledging that these should be applied cautiously, particularly where baseline flows are low. The applicant defines the significance of effect on all PRowS within the Order Limits affected by construction works through a combination of magnitude, receptor sensitivity, and professional judgement. For temporary PRow diversions, the applicant applies DMRB LA 112 thresholds based on diversion length, ranging from negligible (under 50m) to major (over 500m).

- 3.18.21. The applicant scopes out the assessment of traffic-related noise, vibration, and air quality effects from ES Chapter 27 [\[AS1-052\]](#), noting that these are instead addressed in Chapter 19: Onshore Air Quality [\[AS1-046\]](#) and Chapter 26: Noise and Vibration [\[APP-081\]](#), using the same forecast construction traffic dataset but tailored to the specific requirements of those assessments. The applicant has also scoped out the assessment of operational and maintenance traffic effects, following the Planning Inspectorate's Scoping Opinion, on the basis that the anticipated number of vehicle movements would be negligible, as set out in paragraph 100 [\[AS1-052\]](#).
- 3.18.22. As set out in paragraphs 105 to 112 of ES [\[AS1-052\]](#), the applicant defines a realistic worst-case scenario for the construction phase of the proposed development, incorporating conservative assumptions for trip generation and distribution. The applicant lists key trip generation parameters in paragraph 105, including core working hours (between 07:00 to 19:00 hrs, Monday to Saturday), and the assumption that 80% of the construction workforce would arrive before 07:00 hrs and depart after 18:00 hrs (or 16:00 hrs between November and March), with the remaining 20% travelling during highway peak hours. In paragraph 106, the applicant states that HGV traffic would use the routes identified in table 27.4, except for Special Order AILs, which would follow the routes outlined in Annex A of the TA [\[APP-218\]](#). Construction workforce traffic is assessed using the same routes to ensure robustness; however, the applicant notes in paragraph 108 that, in practice, the distribution of workforce vehicles is likely to be more dispersed across the wider local road network, depending on accommodation availability, which would reduce the level of impact on any single route.
- 3.18.23. Two assessment scenarios are considered by the applicant, as described in paragraph 110 of ES Chapter 27 [\[AS1-052\]](#). Scenario 1 assumes the maximum construction traffic impact occurs in Skegness, while Scenario 2 assumes the use of a haul road and Low Road between the A158 and the A52 to divert HGV traffic and avoid Skegness, with the underlying assumptions detailed in table 27.31 [\[AS1-086\]](#). The applicant states in paragraph 112 that although the assessment is based on peak daily traffic flows, these levels are expected to occur only during a two-month period within the core 42-month construction programme.
- 3.18.24. In paragraph 113 and table 27.16 of ES Chapter 27 [\[AS1-052\]](#), the applicant sets out the Maximum Design Scenario (MDS), which defines the maximum adverse effects for each traffic-related receptor during the construction phase of the proposed development. For example, driver severance and delay are assessed based on the highest expected vehicle volumes at each construction access, as set out in Annex J of the TA [\[AS1-092\]](#). Community severance, vulnerable road users and road safety, pedestrian amenity, and dust and dirt are assessed using the maximum number of construction vehicles expected on each highway link, as detailed in table 27.24 [\[AS1-052\]](#).

- 3.18.25. As set out in paragraphs 115 to 126 of ES Chapter 27 [\[AS1-052\]](#), the applicant outlines the methodology for determining the significance of traffic and transport effects by combining the magnitude of impact with receptor sensitivity. The applicant defines the magnitude of impact based on factors such as existing traffic volumes, the percentage increase in traffic, changes in vehicle type, and the temporal distribution of traffic, using guidance from GEATM, DMRB LA 112, and professional judgement. Table 27.18 [\[AS1-052\]](#) provides definitions of impact magnitude across different receptor types.
- 3.18.26. The applicant applies GEATM's Rule 1 and Rule 2 thresholds, as specified in paragraph 119 of ES [\[AS1-052\]](#), to screen which highway links require detailed assessment specifically, where total traffic or HGV flows are predicted to increase by more than 30%, or where traffic increases by 10% or more in sensitive areas. The applicant states that receptor sensitivity is determined using professional judgement, guided by the nature of the study area and the criteria in table 27.19 of ES Chapter 27 [\[AS1-052\]](#). For WCH users of PRoW, sensitivity is assessed with reference to DMRB LA 112, considering factors such as route hierarchy, frequency of use, and availability of alternatives. The applicant notes that GEATM does not define 'sensitive areas' and therefore each receptor is assessed individually.
- 3.18.27. As set out in paragraphs 136 to 143 of ES [\[AS1-052\]](#), the applicant undertook a screening process to identify highway links where forecast daily traffic increases during the construction phase of the proposed development would, in the applicant's view, give rise to significant effects. The applicant calculated percentage impacts against a 2027 future baseline traffic flow using Scenario 1 of the trip generation assessment, with results presented in table 27.24. The sensitivity of each highway link was then considered alongside these impacts in table 27.25, and those links that the applicant considered should be taken forward for further assessment were summarised in table 27.26 [\[AS1-052\]](#).
- 3.18.28. The applicant determines the significance of effect by combining the assessed magnitude of impact with the sensitivity of the receptor, using the matrix presented in table 27.21 of ES Chapter 27 [\[AS1-052\]](#).

The applicant's assessment of effects and its proposed mitigation

- 3.18.29. As set out in paragraphs 129 to 135 of ES Chapter 27 [\[AS1-052\]](#), the applicant assesses the potential for driver severance and delay during the construction phase of the proposed development by screening each construction vehicle route to identify highway links with forecast peak hour traffic increases. Using the assumptions from the MDS, the applicant identifies highway links with more than 30 two-way vehicle movements during peak hours (07:00 to 09:00 hrs and 16:00 to 18:00 hrs), as shown in table 27.23 and all identified highway links listed in table 27.22 [\[AS1-052\]](#).
- 3.18.30. However, the applicant states in ES [\[AS1-052\]](#) that for the A16, A52 Wainfleet Road, A1028 (between the A158 and the A16), and A17, the forecast peak hour vehicle movement increases would be less than 10%, and therefore, in line with paragraph 121, are not expected to result in any discernible environmental impact. For the A158, where the vehicle movements in peak hour increase is marginally above 10% (up to 13.4%), the applicant considers the route not sensitive and the increase well below the 30% threshold set out in Rule 1 in paragraph 120 [\[AS1-052\]](#), and therefore the applicant did not undertake further assessment of driver severance and delay on these highway links.

- 3.18.31. In its assessment presented in paragraphs 144 to 167 of ES Chapter 27 [\[AS1-052\]](#), the applicant considered the potential for community severance during the construction phase of the proposed development. Where medium magnitude impacts (31–60% increase) are forecast, the applicant concluded that most links would experience minor adverse effects, as presented in table 27.29. However, for Low Road (east of Croft), Station Road to Marsh Road, and Wash Road/Craven's Lane, the applicant initially identified moderate or major adverse effects.
- 3.18.32. For Low Road (east of Croft), the applicant noted the presence of residential properties, a caravan park, and a local shop, and initially identified a moderate adverse effect. However, the applicant also noted recent pedestrian safety improvements in the area and indicated that further pedestrian safety measures, such as a central refuge, may be considered prior to the commencement of the proposed development, as mentioned in paragraph 156 [\[AS1-052\]](#).
- 3.18.33. For Station Road to Marsh Road and Wash Road/Craven's Lane, the applicant initially identified major adverse effects due to high sensitivity and medium magnitude. However, the applicant, based on local conditions such as the presence of footways and a controlled pedestrian crossing on Station Road, low baseline traffic volumes on Skeldyke Road, and the absence of local facilities requiring pedestrian crossings on Nidd's Lane and Marsh Road reassessed the sensitivity of these routes. In both cases, the applicant used these revised sensitivity ratings, considering the use of proposed construction vehicle access routes mentioned in paragraphs 159 and 163 [\[AS1-052\]](#), to reduce the overall level of effect to minor adverse and not significant, as discussed in paragraphs 157 to 164 [\[AS1-052\]](#).
- 3.18.34. For highway links with high magnitude impacts—defined by the applicant as greater than a 60% increase in total traffic—such as Brewster Lane, Common Road, Pinfold Lane, and others listed in table 27.30 [\[AS1-052\]](#), the applicant concluded that due to their rural character and absence of sensitive receptors, the effects would be negligible adverse and not significant. Across all three locations, the applicant considered that the implementation of the final Construction Traffic Management Plan (CTMP) and final Travel Plan would further reduce the potential for community severance. Overall, the applicant concluded that there would be no significant effects on community severance as a result of the proposed development.
- 3.18.35. The applicant assessed the potential effects of the proposed development on vulnerable road users and road safety, as described in paragraphs 168 to 172 of ES [\[AS1-052\]](#). Across most highway links, the applicant concluded that with mitigation measures—such as warning signage, speed awareness initiatives, and the provision of passing places—implemented through the final CTMP, the magnitude of impact would be reduced to negligible or low adverse. The only exception was Low Road (east of Croft), where the applicant identified a moderate adverse effect due to increased HGV movements and observed cyclist activity, which the applicant considered significant in Environmental Impact Assessment (EIA) terms. For all other highway links, the applicant concluded that the effects on vulnerable road users and road safety would not be significant.
- 3.18.36. In relation to pedestrian amenity, the applicant considered the potential effects of increased construction traffic, as outlined in paragraphs 171 to 173 of ES [\[AS1-052\]](#). For highway links with less than a 100% increase in total or HGV traffic, the applicant identified negligible or minor adverse effects, as listed in table 27.32 [\[AS1-052\]](#). For highway links exceeding this threshold, the applicant reviews the quantum of vehicles, vehicle speeds, and pedestrian footfall, as summarised in table 27.33 [\[AS1-052\]](#). With mitigation measures such as warning signage, speed awareness,

and the implementation of the final CTMP, the applicant concluded that impacts would be reduced to negligible or low adverse. Accordingly, the applicant considered all effects on pedestrian amenity to be not significant under the EIA regulations.

- 3.18.37. The applicant assessed the potential effects of dust and dirt on the highway, as described in paragraphs 174 to 188 of ES [\[AS1-052\]](#), using the same magnitude thresholds and methodology applied to community severance and road safety. For most highway links, including those with low and medium magnitude impacts, the applicant identified negligible or minor adverse effects, which it considered not significant under the EIA regulations. For Low Road (east of Croft), Station Road to Marsh Road, and Wash Road/Craven's Lane, the applicant initially identified moderate or major adverse effects. However, following further review and with mitigation measures such as wheel washing and other dust and dirt-restricting measures included in the final CTMP, the applicant revised the effects to minor or negligible adverse. For highway links with high magnitude impacts, as listed in table 27.36, the applicant reduced sensitivity on the basis that these routes are located in rural areas with very few residential receptors and concluded that the effects would also be not significant. Overall, the applicant concluded that there would be no significant effects from dust and dirt associated with the proposed development.
- 3.18.38. The applicant assessed the potential effects of the proposed development on users of PRoW, as detailed in tables 27.37 to 27.47 of ES [\[AS1-052\]](#). The assessment is based on medium to high sensitivity across the PRoW routes and considered locations where routes intersect with construction activities. For the majority of PRoWs, the applicant concluded that managed crossings or short temporary diversions would result in negligible or minor adverse effects, which the applicant considered not significant under the EIA regulations. However, for a limited number of routes such as Hogs/58/2, Burm/263/2, Crof/276/2, Crof/276/3, Crof/276/4, Fosd/2/1, Fosd/3/1, and Surf/9/1 the applicant initially identified moderate or major adverse effects due to either diversion length or shared use with construction traffic. Following further review, including seasonal sensitivity and proposed mitigation measures set out in the Outline Public Access Management Plan (PAMP) [\[PD1-062\]](#) such as marked walkways, one-way HGV movements, and banksmen to manage traffic, the applicant considered that the magnitude of impact could be reduced to low. As a result, the applicant concluded that all effects on PRoW users would be minor adverse and therefore not significant in terms of the EIA regulations.
- 3.18.39. As set out in paragraphs 196 to 207 of ES [\[AS1-052\]](#), the applicant presents its assessment of the effects of AILs associated with the proposed development. The applicant anticipates that Special Order AILs would be delivered in small numbers from Port Sutton Bridge to the OnSS via the A17 and A16, and states that a Swept Path Analysis has been provided as part of the TA [\[APP-218\]](#). The applicant further notes that the final port location would be confirmed post-Development Consent Order (DCO) consent and that an Abnormal Load Assessment Report would be prepared to confirm the feasibility of the selected route. According to the applicant, AIL movements would be coordinated through the Electronic Service Delivery for Abnormal Loads system and timed to avoid peak traffic. The applicant also states that non-Special Order AILs, such as cable drums, would be delivered infrequently using the haul road and construction access routes, with traffic management measures in place, such as a pilot vehicle on local access roads. It is the applicant's view that all affected routes have low sensitivity, and with mitigation, the magnitude of impact would be low, resulting in a minor adverse effect that is not significant in EIA terms.

- 3.18.40. The applicant presented a cumulative impact assessment for traffic and transport in ES Chapter 27 [\[AS1-052\]](#), undertaken in accordance with the methodology set out in appendix 5.3 [\[APP-148\]](#). The applicant states that, following a screening process, three residential schemes, the Boston Alternative Energy Facility, and the NGSS are scoped in for cumulative assessment. The applicant assessed both peak hour and daily traffic flows to consider cumulative impacts from these developments alongside the proposed development. Based on forecast traffic increases, the applicant concludes that cumulative impacts on driver severance, community severance, vulnerable road users and road safety, pedestrian amenity, and dust and dirt would not give rise to significant effects. While two highway links (B1449 Thurlby Road and Long Lane) were identified by the applicant as exceeding the 10% threshold for total daily traffic, it is the applicant's view that the resulting effects would be minor adverse and not significant, with the implementation of measures within the final CTMP. The applicant also states that the cumulative contribution of the NGSS was assessed using reasonable assumptions and concludes that its inclusion would not result in significant cumulative effects.
- 3.18.41. The applicant states in ES [\[AS1-052\]](#) that no transboundary effects are anticipated in relation to traffic and transport. In terms of interrelationships, the applicant considers that while receptors may experience overlapping effects from traffic-borne noise and vibration, and air quality during construction, these would not result in effects of greater significance than those assessed individually. It is also the applicant's view that no lifetime traffic and transport effects would arise from the construction, operation, and decommissioning of the proposed development on the same receptor, or group of receptors, as construction traffic would not continue beyond the construction phase. As described by the applicant, interrelated effects have been considered in relation to the proposed development, but none are assessed as significant.
- 3.18.42. The applicant concludes in table 27.52 of ES [\[AS1-052\]](#) that, based on a worst-case assessment of construction traffic, no significant traffic and transport effects are anticipated for the proposed development, provided that embedded mitigation measures are in place. These measures, listed in table 27.17 [\[AS1-052\]](#), include the CTMP [\[APP-289\]](#), Outline Travel Plan [\[APP-290\]](#), and Outline PAMP [\[PD1-062\]](#), as well as the use of temporary haul roads and trenchless techniques to minimise effects.

Issues considered during the examination

- 3.18.43. During the course of the examination, the applicant submitted revisions to the ES documents, as follows:
- ES Chapter 27 Onshore Traffic and Transport [\[REP4a-023\]](#)
 - ES Chapter 27 Onshore Traffic and Transport Figures [\[REP4a-036\]](#)
 - ES Chapter 27 Appendix 1 Transport Assessment [\[REP4a-063\]](#)
 - ES Chapter 27 Appendix 1 Transport Assessment Annex A Special Order AIL Swept Path Analysis [\[REP3-019\]](#) updated at Deadline 4a (D4a) [\[REP4a-066\]](#)
 - ES Chapter 27 Appendix 1 Transport Assessment Annex I Public Rights of Way [\[REP4a-065\]](#)
 - Onshore Crossing Plan [\[REP6-007\]](#)
 - Public Rights of Way Plan [\[REP2-003\]](#) updated at D4a [\[REP4a-004\]](#)
 - Outline Construction Traffic Management Plan [\[REP4a-088\]](#)
 - Outline Public Access Management Plan [\[REP2-042\]](#) updated at D4a [\[REP4a-090\]](#)

- 3.18.44. For clarity, the overall conclusion regarding significant effects on the onshore traffic and transport remains unchanged from that presented at the start of the examination [\[AS1-052\]](#).
- 3.18.45. As outlined in chapter 1, section 1.6 of this Recommendation, a number of changes to the application were submitted and updated during the examination to address matters raised by interested parties (IPs) and the ExA, including several changes that relate specifically to PRoWs. Initially, the applicant submitted a Change Notification [\[AS-025\]](#) that included five recently identified proposed PRoWs and the proposed diversion of 3 of those 5, in response to the ExA's procedural decision [\[PD-010\]](#), which identified changes in the applicant's submission at procedural deadline on 19 September 2024. Following the ExA's advice [\[PD-011\]](#), the applicant submitted a formal Change Request at Deadline (D1) [\[REP1-039\]](#), but subsequently withdrew the PRoW-related elements after being advised by the local authority that the proposed PRoWs are not currently approved and therefore decided not to proceed with the proposed change [\[REP2-050\]](#). At D4, the applicant notified the ExA of further changes to PRoWs [\[REP4-123\]](#), including the removal of proposed temporary closures and diversions to PRoWs Crof/276/2 and Crof/276/3, replacing them with open managed crossings, and a reduction in the length of the proposed diversion to Crof/276/4. The ExA accepted these changes into the examination without requiring a formal change request, concluding that they fell within the scope of drafting refinements and do not materially alter the proposed development [\[PD-022\]](#). These changes are also reflected in the applicant's Guide to the Application [\[REP6-002\]](#).
- 3.18.46. Based on comments raised by IPs and on the ExA's review of the application documents, the key issues considered during the examination were:
- impact of construction traffic on the property of local resident on Wyberton Roads
 - access to the property of local resident on Skirmore Road
 - impacts on public rights of way and non-motorised users
 - cumulative traffic impacts during construction

Impact of construction traffic on the property of local resident on Wyberton Roads

- 3.18.47. A relevant representation (RR) from Nicholas Alexander Sermon [\[RR-093\]](#) raised concerns about the impact of construction traffic on his property, including the proximity of a trench, the location of a temporary construction compound, and the use of a key construction traffic route directly opposite his property. In its response to [RR-093.001](#) [\[PD1-071\]](#), the applicant explained the rationale for selecting Construction Access Point 40 and provided details on the forecast number of HGV movements to Construction Access Points 40 and 41. The locations of these accesses are shown on Sheets 34–35 of the Access to Works Plan [\[AS1-012\]](#). In response to the ExA's first written questions (ExQ1) [\[PD-013\]](#) Q1TT1.4, the IP on Wyberton Road [\[REP2-075\]](#) acknowledges that the HGV traffic assessment for Wyberton Road was reasonable but noted concerns about vehicle passing difficulties.
- 3.18.48. The same IP on Wyberton Road also raised concerns [\[RR-093\]](#) about the use of an existing footpath for construction traffic, which he considered would affect hikers, dog walkers, and those accessing Frampton Marsh managed by the Royal Society for the Protection of Birds (RSPB). In its response [\[PD1-071\]](#), the applicant acknowledges the use of the footpath and confirmed that it had been assessed in

the ES [\[AS1-052\]](#), with no significant effects identified. The applicant stated that users of footpath Wybe/2/4 would be warned of construction vehicles through signage on Wyberton Road, and that such control measures would be implemented to minimise impacts, as set out in the Outline CTMP and PAMP. In his response to ExQ1 [\[REP2-075\]](#), the IP reiterated his concerns about the footpath but noted the applicant's proposal for one passing place. LCC, in its response [\[REP2-069\]](#), confirmed that it had no issues to raise regarding the applicant's responses on this matter.

3.18.49. In its comments on ExQ1 responses [\[REP3-054\]](#), the applicant reiterated its position and confirmed the provision of two additional passing places, as shown in Annex N: Passing Place Proposals [\[AS1-094\]](#), alongside measures outlined in the Outline CTMP [\[APP-289\]](#). The applicant also acknowledged that construction traffic would pass the IP's vehicular entrance onto Wyberton Road and stated its intention to engage with the IP on Wyberton Road to discuss additional traffic management measures.

3.18.50. In response to the ExA's second written questions (ExQ2) [\[PD-020\]](#) Q2TT1.1, the applicant [\[REP4-107\]](#) confirmed that a meeting had been held with the IP on Wyberton Road to explain the passing place proposals at Location 011 [\[AS1-094\]](#) and the construction access arrangements shown on Sheet 13 [\[AS1-090\]](#). The applicant also outlined traffic management measures proposed opposite Construction Access Point AC40 and stated that site-specific measures, such as signage, would be included in the final CTMP. Additionally, the applicant noted that the proposed widening of the track for construction traffic would allow safe use by walkers and committed to discussing any necessary precautions with LCC. In its closing statement at D6 [\[REP6-121\]](#), the applicant confirmed that Nicholas Alexander Sermon's issues were, in its view, materially resolved by the further details provided regarding the proposals and the measures to be secured within the CTMP.

ExA's reasoning

3.18.51. The ExA considers that the applicant has responded constructively to the concerns raised by the IP, Nicholas Alexander Sermon, particularly in relation to construction traffic and the use of the nearby footpath. The provision of additional passing places, site-specific traffic management measures such as signages, and direct engagement with the IP reflect a considered approach to mitigating potential impacts. These actions demonstrate a commitment to addressing matters raised during the examination and ensuring that the final CTMP incorporates appropriate controls.

3.18.52. The ExA notes that the applicant's closing statement [\[REP6-121\]](#) maintains that the concerns raised by Nicholas Alexander Sermon have been materially addressed through the further detail provided and the commitments secured in the CTMP. The signed SoCG with LCC [\[REP5-135\]](#) confirms agreement on the applicant's TA, including the approach to construction access. LCC also confirmed in its response to ExQ1 TT1.4 [\[REP2-069\]](#) that it had no outstanding issues in relation to the applicant's position. The ExA considers that LCC's agreement supports the view that the impacts of construction traffic, including those affecting the IP's property and access, would not be significant and have been appropriately assessed and mitigated.

Access to the property of local resident on Skirmore Road

- 3.18.53. An RR from Barry Cooper [\[RR-080\]](#) raised concerns about the potential impact of the proposed development's HGV routes on access to his property during the construction period. In its response to RR-080.002 [\[PD1-071\]](#), the applicant stated that a scheme of passing places is proposed on the local construction vehicle access route between the A52 and the onshore cable corridor via Low Road, Yawling Gate Road, and Howgarth Lane to mitigate the impact of construction traffic and allow two HGVs to pass safely, as shown in annex N: Passing Place Proposals [\[APP-229\]](#). The applicant confirmed that this had been agreed in principle with LCC and would be finalised at the detailed design stage, should the DCO be granted. The applicant also referred to the Outline CTMP [\[APP-289\]](#), which sets out the types of measures that would be implemented during the construction period to manage construction traffic and minimise disruption, and which would be agreed with LCC prior to implementation. One of the examples that could mitigate the impact on the IP's property is the provision of passing places along the identified route, which would help maintain access by reducing the likelihood of congestion and ensuring safer vehicle movements in the immediate vicinity.
- 3.18.54. In response to the ExA's ExQ1 [\[PD-013\]](#) Q1TT1.5, the IP on Skirmore Road did not provide a further submission. However, in its closing statement at D6 [\[REP6-121\]](#), the applicant maintained its position that the proposed mitigation measures are robust and would ensure there are no significant impacts on access to Barry Cooper's property. LCC, in its response to the ExA's Q1TT1.5 [\[REP2-069\]](#), confirmed that it had no reason to dispute the applicant's conclusions on this matter.

ExA's reasoning

- 3.18.55. The ExA considers that the applicant's proposed scheme of passing places as illustrated in annex N [\[AS1-094\]](#) and associated construction traffic management measures, as set out in the Outline CTMP [\[APP-289\]](#), would represent a reasonable and proportionate approach to mitigating the potential impact of construction traffic on access to Barry Cooper's property. These measures are intended to facilitate safe two-way HGV movement along the identified route and reduce the likelihood of congestion affecting residential access. The ExA notes that the final details of these proposals would be developed at the detailed design stage and secured through the dDCO, subject to approval by the relevant highway authority.
- 3.18.56. Although Barry Cooper did not provide a further submission in response to ExQ1 [\[PD-013\]](#) Q1TT1.5, LCC confirmed in its response [\[REP2-069\]](#) that it had no reason to dispute the applicant's conclusions. Furthermore, the signed SoCG with LCC [\[REP5-135\]](#) records agreement on the applicant's TA, including the passing place proposals and the process for securing final details through the final CTMP. The applicant's closing statement [\[REP6-121\]](#) maintains that the proposed mitigation would ensure there would be no significant effect on access to Barry Cooper's property. The ExA is satisfied that the approach taken by the applicant, including the provision of passing places and the implementation of construction traffic management measures secured through the dDCO, would be appropriate and proportionate in the context of the concerns raised.

Impacts on public rights of way and non-motorised users

- 3.18.57. In ExQ1 [\[PD-013\]](#) Q1TT1.2, the ExA referred to paragraph 10.9 of LCC's LIR [\[REP1-053\]](#), which raised concerns about the use of rural roads not designed to accommodate HGVs. LCC noted that such use could lead to increased wear and damage to the local highway network and highlighted a clear safety issue arising

from increased vehicle activity on roads with no dedicated provision for pedestrians, cyclists, or equestrians. LCC stated that vehicular activity on these roads should be restricted where possible, and that specific mitigation should be provided through phase-specific construction management plans.

- 3.18.58. In response to ExQ1 [\[PD-013\]](#) Q1TT1.2, LCC [\[REP2-069\]](#) further raised concerns about the potential for conflict between non-motorised users and construction traffic, particularly on rural roads without dedicated pedestrian, cyclist, or equestrian infrastructure. LCC notes that these roads are likely to be used for recreational purposes, especially during the summer months, and that tourists unfamiliar with the area may not expect to encounter large HGVs. LCC recommended that measures be put in place to minimise the use of non-A and B class roads by construction traffic and, where unavoidable, to restrict such use to times of day or year when conflicts are least likely. This issue was further explored by the ExA during issue specific hearing 3 (ISH3) as recorded in the [\[EV7-004\]](#).
- 3.18.59. In its response to ExQ1 [\[PD-013\]](#) Q1TT1.2, the applicant [\[REP2-051\]](#) and [\[REP3-054\]](#) referred to section 4.1.4 of the Outline CTMP [\[APP-289\]](#), which states that safety measures—such as warning signage or information on alternative routes—for walking, cycling, and horse-riding would be considered at specific locations and included in phase-specific CTMPs. The applicant also noted that, due to the narrow nature of many local access roads, HGVs would be travelling at low speeds, thereby reducing the risk of conflict. The applicant also referred to section 4.1.2 of the Outline CTMP, which outlines driver awareness measures, including safe and defensive driving practices. The applicant confirmed that the Outline CTMP is secured through requirement 21 of the draft DCO (dDCO) [\[PD1-024\]](#) and that phase-specific CTMPs would be submitted for approval by the relevant highway authority in consultation with the planning authority prior to construction.
- 3.18.60. In relation to PRow, ExQ1 [\[PD-013\]](#) Q1TT1.7 sought clarification on how the applicant had addressed concerns raised by LCC in its LIR [\[REP1-053\]](#), particularly regarding disruption to access near the landfall point and the importance of the PRow network for accessing the LCC's Coastal Country Park. In its response to ExQ1 TT1.7 [\[REP2-051\]](#), the applicant acknowledged that the PRow network may be used by walkers to access the coast and the Coastal Country Park, as noted by LCC in section 11.5 of its LIR. The applicant stated that the PRow in the vicinity of landfall—specifically Hogs/57/1, Ande/19/1, Ande/19/2, Ande/19/3, and Chap/21/4—would remain open with a managed crossing, as set out in the Outline PAMP [\[PD1-062\]](#). The applicant concluded that the interruption to lawful users' access would be minimised and that the assessment of potential effects in table 23.37 of ES Chapter 27 [\[AS1-051\]](#) found the level of effect to be minor adverse and therefore not significant in terms of the EIA Regulations.
- 3.18.61. In its response [\[REP2-069\]](#), LCC welcomed the applicant's commitment to consult on the final PAMP and to minimise disruption but raised several other concerns including the need for clarity on diversions affecting the King Charles III England Coast Path (KCIIECP), the nature and placement of warning signage, the use of fencing and barriers, and the definition and operation of managed crossings.
- 3.18.62. During ISH3 [\[EV7-004\]](#), the ExA asked the applicant to clarify the status of the KCIIECP in relation to the Outline PAMP [\[REP2-042\]](#), including whether Natural England consent would be required separately from the DCO. This is recorded as Action Point 8 [\[EV7-010\]](#). In response to Action Point 8, the applicant [\[REP3-053\]](#) and [\[REP3-046\]](#) confirms that the KCIIECP had been assessed under its previous name, "*England Coast Path*," and is located within the trenchless installation area at

landfall. The applicant stated that cable installation would not involve any surface works and therefore no diversion or management measures would be necessary. The applicant also confirmed that emergency access to the beach, if required, would not affect the path.

- 3.18.63. The ExA followed up in ExQ2 [\[PD-020\]](#) Q2TT1.2, asking LCC whether it had any concerns about the applicant's response to Action Point 8. In its reply [\[REP4-133\]](#), LCC confirmed that it did not wish to raise any concerns. LCC stated that the applicant's response addressed all points previously discussed and was consistent with the agreement reached during a meeting with the applicant team.

ExA's reasoning

- 3.18.64. The ExA notes that concerns raised by LCC regarding the safety of non-motorised users and potential disruption to PRowWs, including the KCIIIECP, were addressed through the Outline CTMP [\[REP4A-088\]](#) and Outline PAMP [\[REP4a-090\]](#), with further clarification provided in response to Action Point 8 from ISH3 [\[REP3-053\]](#). The applicant's commitment to consult on final plans and respond to specific issues contributed to resolving these concerns. LCC subsequently confirmed [\[REP4-133\]](#) that it had no outstanding matters, and agreement on the applicant's approach is recorded in the signed SoCG [\[REP5-135\]](#). The applicant's closing statement [\[REP6-121\]](#) confirms its view that the issues raised by LCC had been resolved.
- 3.18.65. The ExA is satisfied that the applicant has responded constructively to the issues raised regarding the safety of non-motorised users on rural roads and the potential disruption to PRowWs and that the mitigation measures proposed are proportionate and appropriately secured. The Outline CTMP and Outline PAMP provide a clear framework for managing construction traffic and maintaining safe access for non-motorised users and PRowW users. These documents are secured through requirements in the final dDCO [\[AS-042\]](#), and LCC, as the local highway authority, would be responsible for approving the final versions prior to implementation.

Cumulative traffic impacts during construction

- 3.18.66. In [\[RR-004\]](#) and paragraph 10.10 of its LIR [\[REP1-053\]](#), LCC raised concerns about the potential cumulative traffic impacts on the A16 and A158 routes during the construction phase. LCC acknowledged that the traffic impacts of the proposed development alone, projected at around 5% to 10% over existing flows, would be noticeable but acceptable. However, it considered that if the proposed development were to coincide with other Nationally Significant Infrastructure Projects (NSIPs) in the area, specifically two National Grid schemes and the Ossian Offshore Wind and Cable Route, the combined traffic could result in a 20% to 40% uplift on key A roads in the east of the county. LCC stated that such an increase would be a major concern, particularly on critical routes such as the A16 through Boston and the A158 through Horncastle, which it considered could not accommodate such changes.
- 3.18.67. LCC also noted in [\[RR-004\]](#) that while it generally agreed with the methodology and approach in the applicant's TA [\[APP-229\]](#), and found the vehicle generation, distribution, and assessment acceptable for the scheme in isolation, it strongly recommended that the cumulative effects assessment be expanded. LCC highlighted that several other NSIP-scale energy developments in the vicinity—namely National Grid's Grimsby to Walpole Overhead Lines, Eastern Green Links 3 and 4, and the Ossian Offshore Wind project—had not been included in the applicant's cumulative assessment. Given the potential geographic overlap and similarities to the proposed development, LCC advised that these projects should be considered in the cumulative effects assessment.

- 3.18.68. The applicant, in its response to RR-004.003 [\[PD1-071\]](#), stated that a detailed cumulative impact assessment had been undertaken as part of the EIA, based on all reasonably foreseeable developments for which sufficient information was available at the time of submission. Section 27.9 of ES Chapter 27 [\[AS1-052\]](#) assessed cumulative impacts from the Boston Alternative Energy Facility, three residential developments, and the proposed National Grid Substation at Weston Marsh. The applicant concluded that cumulative vehicle movements would occur only on core access routes capable of accommodating high traffic volumes, and that no significant effects were identified. It also noted that it had engaged with the three projects referenced by LCC, including National Grid's Grimsby to Walpole and Eastern Green Links 3 and 4, both of which had held non-statutory consultations in early 2024. No detailed information was available for the Ossian Offshore Wind project, which was at an earlier stage of development. The applicant stated that it would continue to monitor the availability of environmental, spatial, and temporal information for other projects in the region and emphasised that future NSIPs would be required to undertake their own cumulative assessments in accordance with Planning Inspectorate Advice Note 17.
- 3.18.69. The applicant further explained [\[PD1-071\]](#) that the peak construction traffic for the proposed development would occur only during months 19 and 20 of the construction programme, with significantly lower traffic levels in other months. Based on average traffic levels across the construction period, the applicant considered that the potential for a 20% to 40% uplift on key A roads, as suggested by LCC, was unlikely. It also noted that, as the proposed development was at a more advanced stage, detailed traffic data would be available to inform the cumulative assessments of future projects.
- 3.18.70. In its submission [\[REP2-069\]](#), LCC accepted that the applicant's approach was reasonable in the context of conventional planning, where developments are assessed sequentially. However, it maintained that NSIPs should be treated differently due to their national strategic importance. LCC advised that cumulative impacts and project prioritisation should be considered to avoid a scenario in which highway capacity is absorbed by earlier consents, potentially affecting the deliverability of later NSIPs.
- 3.18.71. To support its position, the applicant submitted a 'Report on the Inter-relationship with Other Infrastructure Projects' at D2 [\[REP2-055\]](#), in accordance with the Procedural Decision set out in the rule 8 letter [\[PD-011\]](#) annex B, paragraph 6. The report outlined other NSIPs in the area, the availability of information on those projects, and the potential for cumulative impacts. During ISH3 [\[EV7-004\]](#), LCC confirmed that it had no concerns with the applicant's submission at that stage. The applicant reiterated this position in its ExQ1 responses [\[REP3-054\]](#), stating that the interrelationship report had been submitted and that LCC's comments had been noted.

ExA's reasoning

- 3.18.72. LCC maintained concerns about potential cumulative traffic impacts if the proposed development coincides with other NSIPs and recommended a mechanism to manage such impacts [\[REP2-069\]](#). The applicant reiterated that its cumulative assessment considered all reasonably foreseeable developments and noted that peak construction traffic would be short-term, with average traffic levels remaining low. These positions were confirmed in the applicant's closing statement [\[REP6-121\]](#).

- 3.18.73. The ExA is aware that the inter-relationship report was updated at D6 [\[REP6-100\]](#) to reflect the latest available information on nearby projects. LCC confirmed during the examination that it had no concerns with the earlier version of the report [\[REP2-055\]](#), and the signed SoCG with LCC [\[REP5-135\]](#) records agreement on the cumulative assessment methodology as set out in item LCC11. However, the SoCG also notes LCC's position that additional NSIPs at the pre-application stage could have similarly large traffic impacts and that a mechanism should be agreed to manage these collectively if consented. The ExA considers that the applicant's engagement with other NSIPs and participation in the Lincolnshire Energy Forum, as acknowledged by LCC in the SoCG, provides a constructive basis for future coordination. The ExA is satisfied that the applicant has undertaken a proportionate cumulative assessment based on the information available at the time of submission and has committed to ongoing monitoring of other infrastructure developments that could give rise to cumulative effects; however, the ExA notes that it is not clear whether a robust mechanism is secured in the dDCO to enable such monitoring and mitigation, should cumulative traffic impacts become a more significant concern.

Conclusions

- 3.18.74. The ExA concludes that the applicant has undertaken a proportionate and policy-compliant assessment of the onshore traffic and transport effects of the proposed development, both for the project alone and cumulatively. The TA [\[REP4a-063\]](#), the Outline CTMP [\[REP4a-088\]](#), the Travel Plan [\[APP-290\]](#), and the Outline PAMP [\[REP4a-090\]](#) provide a robust framework for understanding and managing the likely effects of construction traffic — for example, on the local highway network, access to properties, and users of PRoWs. These measures are secured through requirements 18 (Code of Construction Practice), 21 (CTMP and Travel Plan), and 22 (PAMP), as well as through the Traffic Regulation Order Plan and PRoW Plan under article 41 of the final dDCO [\[AS-042\]](#).
- 3.18.75. The ExA is satisfied that the applicant has responded constructively to concerns raised by the IPs on Wyberton Road and Skirmore Road, and matters raised by LCC, including in its LIR [\[REP1-053\]](#), regarding construction access locations, PRoWs, and the safety of non-motorised users. The ExA is content that appropriate mitigation is secured through the Outline CTMP and Outline PAMP, and that these matters are agreed with LCC and the district councils, as recorded in the signed SoCGs [\[REP5-135\]](#) and [\[REP5-136\]](#).
- 3.18.76. On cumulative traffic impacts, the ExA acknowledges LCC's concerns about the potential for significant effects if the proposed development were to coincide with other NSIPs in the region. The ExA is satisfied that the applicant's cumulative assessment is proportionate and based on the best available information at the time of submission. The ExA also notes the applicant's commitment to ongoing engagement with other infrastructure projects. However, the coordination of cumulative traffic impacts across multiple NSIPs with overlapping construction periods remains an area of strategic importance. The applicant's participation in the Lincolnshire Energy Forum, as noted in the SoCG [\[REP5-135\]](#), provides a constructive platform for ongoing collaboration. While the ExA cannot itself secure regional coordination mechanisms through this examination, the Secretary of State may wish to consult with LCC on whether further measures are required at a regional level to manage cumulative impacts from multiple NSIPs being constructed concurrently.
- 3.18.77. The ExA concludes that the proposed development is in accordance with the relevant policies in NPS EN-1 and EN-3, including the requirement to assess and

mitigate transport impacts, maintain public access, and ensure safety during construction. The ExA also finds that the proposed development aligns with relevant local policies and guidance on traffic and transport and identifies no additional significant or relevant considerations.

- 3.18.78. Due to the minor adverse residual effects identified in ES Chapter 27 [\[REP4a-023\]](#), and the potential for adverse cumulative impacts should other NSIPs proceed concurrently, the ExA assigns a little negative weight to the onshore traffic and transport impacts both for the project alone and cumulatively against making the Order in the [planning balance](#).

3.19. ONSHORE NOISE AND VIBRATION

Introduction

- 3.19.1. This section assesses the effects of the proposed development with respect to noise and vibration at onshore receptors.
- 3.19.2. In its consideration of noise and vibration, the Examining Authority (ExA) has had regard to:
- Overarching National Policy Statement for Energy EN-1 (NPS EN-1), as set out in Section 5.12
 - National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3)
 - National Policy Statement for Electricity Networks Infrastructure EN-5 (NPS EN-5)
 - the National Planning Policy Framework (NPPF) 2024
 - National Planning Practice Guidance for Noise 2014 (updated in 2019)
 - Noise Policy Statement for England (NPSE) 2010
 - Local Impact Report (LIR) submitted by Lincolnshire County Council (LCC) and a joint LIR from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC)
 - South East Lincolnshire Local Plan 2011-36
 - the Environmental Protection Act 1990
 - the Control of Pollution Act 1974
 - Guidelines for Environmental Noise Impact Assessment by the Institute of Environmental Management and Assessment (IEMA) 2014
 - any matters prescribed in relation to the proposed development
 - any other important and relevant matters

The applicant's case

- 3.19.3. The applicant submitted a number of relevant documents in relation to noise and vibration to accompany the application, including the following:
- Environmental Statement (ES) Chapter 26 Onshore Noise and Vibration [[APP-081](#)]
 - ES Chapter 26 Onshore Noise and Vibration Figures [[APP-117](#)]
 - ES Chapter 26 Appendix 26.1 Sound Level Meter Calibration Certificates [[APP-214](#)]
 - ES Chapter 26 Appendix 26.2 Full Baseline Survey Results [[APP-215](#)]
 - ES Chapter 26 Appendix 26.3 Full Construction Plant List [[APP-216](#)]
 - ES Chapter 26 Appendix 26.4 Full Noise Model Outputs [[APP-217](#)]
 - Outline Noise and Vibration Management Plan [[APP-269](#)]
 - Outline Code of Construction Practice [[APP-268](#)], updated at PD1 [[PD1-038](#)]
- 3.19.4. The applicant notes that the ES Chapter 26 [[APP-081](#)], should be read with particular reference to:
- ES Chapter 21 of the ES Onshore Ecology [[APP-076](#)]
 - ES Chapter 27 of the ES Traffic and Transport [[AS1-052](#)]

Scope and methodology

- 3.19.5. In ES Chapter 26 the baseline environment for noise and vibration is divided into three study areas: the landfall, the onshore Export Cable Corridor (ECC) and 400

kilovolt (kV) cable corridor, and the Onshore Substation (OnSS), as illustrated in figure 26.1 [APP-117]. The assessment for each area includes:

- a description of the study area
- the baseline monitoring locations
- the monitoring equipment and indices measured
- the measurement duration
- weather conditions during the survey
- the baseline sound survey results
- the baseline soundscape at each monitoring location
- an evaluation of the baseline sound levels.

- 3.19.6. ES Chapter 26 [APP-081] scopes out the assessment of noise from the construction, operation, and decommissioning of the offshore elements, given the array's distance of 54 km from the shore and any onshore noise-sensitive receptors. According to the applicant, noise would not be audible due to sound attenuation over this large distance, resulting in no likely significant effects (LSE) on onshore noise-sensitive receptors. Additionally, the assessment scopes out the impact of noise and vibration from the underground cable during operation and maintenance, as well as transboundary noise and vibration effects.
- 3.19.7. In compliance with British Standard (BS) 5228:2009+A1:2014, Code of Practice for Noise and Vibration Control on Construction and Open Sites Part 1: Noise and Part 2: Vibration, construction noise and vibration assessments for the landfall area, onshore ECC (including the 400kV Cable Corridor), and OnSS are conducted using Cadna/A noise modelling software, as set out by the applicant.
- 3.19.8. The maximum design scenario (MDS) for noise and vibration for the proposed development, as outlined in table 26.32 [APP-081], assumes the use of trenchless technology at all crossing points, including water crossings. Trenchless drilling works are divided into two different scenarios: 'minor drills' and 'major drills,' based on an indicative plant list and on-times. The assessment considers the nearest noise-sensitive receptors (NSRs) to each minor drill location (approximately 400 possible minor drill cable installation compound (CIC) locations) and major drilling location (six trenchless cut (TC) locations) in all directions.
- 3.19.9. For the MDS, the assessment of temporary noise effects from the construction phase uses an indicative construction plant list and associated on-times for each phase, assuming all the plant operates simultaneously at the same location. The noisiest phase is then selected, including assessments undertaken for weekends for the construction operations, considering the measured baseline sound levels and the ABC method outlined in BS 5228-1:2009+A1:2014, using lower noise threshold limits.
- 3.19.10. In comparison to a Gas Insulated Switchgear (GIS) layout, an Air Insulated Switchgear (AIS) layout operating 100% of the time would lead to greater noise impacts. Therefore, the operational noise effects of the OnSS are assessed using an AIS layout, assuming that the associated plant operates 100% of the time. This approach avoids positioning buildings between noise-emitting equipment and NSRs to ensure a worst-case scenario.
- 3.19.11. In table 26.33 [APP-081], mitigation measures relevant to noise and vibration are detailed, including general measures applicable to the proposed development, as well as specific measures for noise and vibration issues at the landfall, ECC, and OnSS. These include, for example, the use of acoustic screening and quieter plant,

and adherence to Best Practicable Means (BPM) such as limiting construction hours and maintaining equipment to reduce noise emissions during construction. Potential additional mitigation measures that may be specified during detailed design to further reduce noise impacts are outlined in table 26.34 [\[APP-081\]](#), including enclosing breakers in acoustic enclosures and the use of localised acoustic screening.

- 3.19.12. The ES Chapter 26 [\[APP-081\]](#) states that during the detailed design phase post-consent, final mitigation measures would be determined and included in the final Noise and Vibration Management Plan (NVMP). Examples of potential detailed design mitigation measures are provided in table 5.1 of the Outline NVMP [\[APP-269\]](#). The final NVMP would be submitted for approval to the relevant Local Planning Authorities (LPAs) as part of the final Code of Construction Practice (CoCP), to which it will be annexed.
- 3.19.13. Construction traffic noise is assessed by comparing scenarios with and without construction traffic to determine the change in noise levels due to the proposed development. The ES [\[APP-081\]](#) states that the updated noise assessment section (Volume 11, Section 3, Part 7, LA111) is similar to the one in Design Manual for Roads and Bridges (DMRB) (Standards for Highways, 2020), validating the assessment method. By focusing solely on the difference in traffic noise, the Basic Noise Level at 10 meters from the road is calculated for each scenario, which is then used to represent changes at all receptor locations along each road link.
- 3.19.14. Traffic flows consider the Annual Average Weekday Traffic (AAWT) and the percentage of Heavy Goods Vehicles (HGVs), assuming both the "*With Scheme*" (with the proposed development) and "*Without Scheme*" (without the proposed development) scenarios, as outlined in table 26.66 [\[APP-081\]](#). This predicts the change in noise levels and the level of effect and significance. In reality, the applicant in ES [\[APP-081\]](#) indicates that traffic flows on road links are likely to be lower. The final NVMP would set out how noise levels from construction traffic will be monitored and how mitigation measures will be implemented in liaison with the relevant LPA.
- 3.19.15. The criteria for assessing noise and vibration impacts, including sensitivity and magnitude, are outlined in Tables 26.36 to 26.42 [\[APP-081\]](#), with sensitivity levels ranging from negligible to high and impact magnitudes from negligible to high. The significance of effects, as outlined in Table 26.43, is determined by combining receptor sensitivity and impact magnitude. This assessment is undertaken in relation to the NPPF and NPSE (Defra, 2010), using the following classifications: 'negligible' and 'minor' levels of effects are considered as No Observed Effect Level (NOEL), 'moderate' levels of effect as Lowest Observed Adverse Effect Level (LOAEL), and 'major' levels of effect as Significant Observed Adverse Effect Level (SOAEL).
- 3.19.16. The ES assesses the noise generated by construction and operational activities at the OnSS and its impact on nearby international and national ecological sites listed in section 26.7.6 of chapter 26 [\[APP-081\]](#), following AQTAG09 (Air Quality Technical Advisory Group 09) Guidance on the effects of industrial noise on wildlife, with further detail provided in onshore ecology and ornithology of the Recommendation. Construction noise impacts at Anderby Nature Reserve, including the Sea Bank Clay Pits Site of Special Scientific Interest (SSSI), are separately considered due to their proximity to the landfall, as outlined in Table 26.57 [\[APP-081\]](#).

- 3.19.17. The assessment of vibration from construction considers underground drilling activities associated with trenchless drilling operations at the landfall and various locations along the onshore ECC, vibratory piling activities at these locations, and piling for the OnSS foundations. Desktop predictions of ground-borne vibration from drilling works are conducted in accordance with BS 5228-2:2009+A1:2014, the Code of Practice for noise and vibration control on construction and open sites, Part 2: Vibration.
- 3.19.18. The ES [APP-081] specifies that the rating level limits outlined in table 26.74 consider the background sound levels for residential properties, in line with BS 4142 Methods for rating and assessing industrial and commercial sound (BSI, 2019), which states that *"where background sound levels and rating levels are low, absolute levels might be as, or more, relevant than the margin by which the rating level exceeds the background. This is especially true at night."*
- 3.19.19. BS 4142 (BSI, 2019) does not specify what background and rating levels are considered low. However, the 1997 version of the standard states that *"the method is not suitable for assessing the noise measured inside buildings or when the background and rating noise levels are both very low. NOTE. For the purposes of this standard, background noise levels below about 30 dB and rating levels below about 35 dB are considered to be very low."* As shown in Table 26.31 [APP-081], the representative background sound levels measured are therefore considered low according to BS 4142:2014+A1:2019.
- 3.19.20. The World Health Organisation (WHO) Night Noise Guidance for Europe (NNG) (2009) indicates that adverse effects on sleep begin to occur at levels below 40 Decibel (dB) L_{night} , outside. This threshold is considered equivalent to LOAEL for night noise.
- 3.19.21. An interrelated construction effects assessment considered the likely significant effects (LSE) from the following interrelations:
- Landfall and ECC construction noise affecting human receptors.
 - Landfall and ECC construction noise affecting ecological receptors.
 - ECC and OnSS construction noise affecting human receptors.
- The assessment, detailed in section 26.7.9 of ES Chapter 26 [APP-081], concluded that after implementing the embedded mitigation measures and the final NVMP, there are no significant interrelated effects in Environmental Impact Assessment (EIA) terms.
- 3.19.22. The Cumulative Effects Assessment (CEA) for noise and vibration considered a Zone of Influence (ZOI), defined in [APP-148] as 1 kilometre (km) along the route of the onshore ECC and 400kV cable corridor, and 5km from the centre of the OnSS. The Offshore CEA ZOI is outlined in table 5.2 of [APP-147]. Developments considered as part of the noise and vibration CEA are listed in table 26.77 [APP-081], with cumulative MDS described in table 26.78 and cumulative traffic noise assessment in section 26.8.1 of ES Chapter 26 [APP-081]. No significant cumulative effects were identified regarding the potential impacts of the proposed development on noise and vibration during construction, operation and maintenance, and decommissioning.
- 3.19.23. A summary of the assessment of significant effects, with relevant additional environmental mitigation measures and the residual effects on noise and vibration

receptors, is outlined in table 26.81 of ES chapter 26 [APP-081], which concludes that residual effects are no worse than minor adverse for any effect.

Issues considered during the examination

- 3.19.24. During the course of the examination, the applicant submitted revisions to the ES documents, as follows:
- ES Chapter 26 Onshore Noise and Vibration [REP4a-021]
 - ES Chapter 26 Onshore Noise and Vibration Figures [REP4a-035]
 - ES Chapter 26 Appendix 26.4 Full Noise Model Outputs [REP4a-061]
 - Outline Noise and Vibration Management Plan [REP2-031]
- 3.19.25. For clarity, the overall conclusion regarding significant effects on the onshore noise and vibration remains unchanged from that presented at the start of the examination [APP-081].
- 3.19.26. Based on comments raised by interested parties (IPs) and on the ExA's review of the application documents, the key issues considered during the examination were:

- Noise and Vibration impacts on residential properties

The impact of vibration on Middlecotts Hospital Almshouses, a Grade II listed building, as reported in the relevant representations (RRs) from Anthony Kindred [RR-084] and Lisa Kindred [RR-085], is addressed in the Historic Environment section 3.16 of this Recommendation.

Noise and Vibration impacts on residential properties

- 3.19.27. A RR from Barry Cooper [RR-080] raised concerns about the impact of noise and vibration during construction operations on his property due to the close proximity of the proposed development.
- 3.19.28. Nicola Ann Pearson [RR-091] raised concerns about potential structural damage to her cottage, which she attributes to *"the vibrations from the heavy plant and vehicles that are laying the cables and using the haul road,"* which, in her view, *"appears to be in very close proximity of the cottage."*
- 3.19.29. The applicant's response to Barry Cooper's RR [PD1-071] indicates that residential properties located more than 80 metres (m) from the extent of the ECC boundary would be subject to predicted noise levels from ECC construction operations below the midweek Category A threshold limit of 65 dB LAeq,T (A-weighted equivalent continuous sound level over a given time period) as defined in BS 5228:2009+A1:2014 – Part 1: Noise. Additionally, residential properties located more than 261 m from the ECC boundary would experience predicted noise levels below the weekend (13:00 to 19:00) Category A threshold limit of 55 dB LAeq,T, also in accordance with BS 5228. For Barry Cooper's property, the applicant predicts ECC construction operations noise levels below the Category A threshold value during midweek and slightly above the threshold value, approximately 56 dB LAeq,T, during the weekend. This equates to a 'minor adverse level of effect' and is not significant in EIA terms. Regarding vibration, the applicant notes that residential properties located more than 140 m from minor and major drill operations would experience a temporary minor adverse level of effect. Further the applicant states that *"Mr Cooper's property is located a great enough distance away from the nearest minor drill operation and over 5 kilometres from the nearest major drill operation."* Thus, according to the applicant the vibration impact on Barry Cooper's

property is considered a minor adverse level of effect and not significant in EIA terms.

- 3.19.30. The applicant's response to the RR submitted by Nicola Ann Pearson [\[PD1-071\]](#) acknowledges the concerns raised and states that potential impacts from vibration have been thoroughly assessed in ES Chapter 26 Noise and Vibration [\[APP-081\]](#), with no significant effects identified. Furthermore, the applicant contends that according to BS 7385-2 1993, a Peak Particle Velocity (PPV) of approximately 15 millimetres per second (mm/s) (at 4 Hertz (Hz)) is required to cause damage to residential buildings. For heritage buildings, a lower limit is considered necessary, with projects like Crossrail using a precautionary PPV limit of 3mm/s, consistent with German Standard DIN 4150-3:1999 (German Institute for Standardisation). Next, the applicant also states that *"the project is committed to reduce construction noise and vibration levels"*, predicting a 'minor level of effect' at residential receptors based on human response rather than structural damage. This corresponds to a PPV level of 0.9mm/s during the daytime and below 0.3mm/s at night. These levels are below the threshold at which structural damage to buildings is expected to occur, and the applicant considers that, based on the predicted vibration levels, there would be no likely significant effect on Nicola Ann Pearson's cottage, even when applying precautionary thresholds for potentially sensitive structures.
- 3.19.31. The ExA sought confirmation from LCC in the First Written Questions (ExQ1) [\[PD-013\]](#), and from ELDC, BBC, and SHDC in the Second Written Questions (ExQ2) [\[PD-020\]](#), to establish whether they found the applicant's conclusions in response to Barry Cooper's RR satisfactory.
- 3.19.32. The joint response from ELDC, BBC, and SHDC to ExA's Second Written Questions (ExQ2) Q2NV1.1 [\[REP4-132\]](#) indicated that the potential noise impacts have been assessed in ES Chapter 26, concluding that no significant effects were identified. They recommend that relevant vibration-sensitive receptors (VSRs) in the immediate area of any proposed works, as well as the Council, should be informed prior to the commencement of works. Additionally, they suggest that monitoring equipment should be used in the vicinity of the works and requested that a contact point be provided for complaints.
- 3.19.33. The ExA sought a response from Nicola Ann Pearson and confirmation from LCC in ExQ1 [\[PD-013\]](#), and from ELDC, BBC, and SHDC in ExQ2 [\[PD-020\]](#), regarding whether they find the applicant's conclusions satisfactory.

ExA's reasoning

- 3.19.34. The ExA did not receive a response from Nicola Ann Pearson regarding the ExQ1. The joint response from ELDC, BBC, and SHDC to the ExA's Written Question Q2NV1.4 aligns with their response to Q2NV1.1, as outlined in the preceding paragraphs.
- 3.19.35. The applicant's comments on responses to ExQ2 [\[REP4a-114\]](#) confirmed that Sections 5.4 and 5.5 of the Outline NVMP [\[REP2-031\]](#) include provisions for both monitoring and communication, consistent with the approach described by the ELDC, BBC and SHDC. Paragraph 36 indicates that the relevant Local Planning Authority (LPA) and the relevant VSRs would be informed ahead of the commencement of works, while paragraph 35 outlines that a vibration monitoring procedure at the relevant VSRs would be included within the final NVMP. Additionally, the applicant confirmed in [\[REP4a-114\]](#) that the final version of the NVMP would include details of the designated point of contact for complaints. The

final NVMP would be submitted to and approved by LCC in accordance with requirement 18 (Code of Construction Practice) of the final draft Development Consent Order (dDCO) [\[AS-042\]](#).

3.19.36. Section 5.6 of the Outline NVMP [\[REP2-031\]](#) describes the construction working hours, while the restriction of those hours is set out in requirement 19 of the final dDCO [\[AS-042\]](#). This requirement limits the likelihood of construction-related noise occurring during nighttime hours, with exceptions permitted only under the specific circumstances outlined in requirement 19(2) and 19(4), with prior approval from LCC.

3.19.37. The district and borough councils, find the applicant's assessment of noise and vibration impacts to be satisfactory. The ExA agrees with this view and also notes that monitoring procedures have been effectively secured through the Outline NVMP [\[REP2-031\]](#), which is a certified document in Schedule 21 of the final draft Development Consent Order (dDCO) [\[AS-042\]](#), and forms part of the CoCP as required under requirement 18(2)(c).

Conclusions

3.19.38. The ExA concurs with the applicant's assessment of the potential noise and vibration effects of the proposed development for both the project alone and cumulatively on receptors, including Barry Cooper's property. Based on the evidence presented, the ExA does not consider that the proposed development would give rise to any significant adverse effects in this regard.

3.19.39. Having considered the information provided by both the applicant and IP before and during the examination, the ExA is satisfied that the proposed development would not result in significant adverse effects from vibration on Nicola Ann Pearson's cottage.

3.19.40. The ExA notes that the LIR submitted by the district and borough councils [\[REP1-053\]](#) did not raise any outstanding concerns in relation to noise and vibration. The Statement of Common Ground (SoCG) between the applicant and the district and borough councils [\[REP5-136\]](#) confirms that construction noise and vibration assessments have been undertaken in accordance with the requirements of BS 5228:2009+A1:2014 – Code of Practice for Noise and Vibration Control on Construction and Open Sites, Part 1 (Noise) and Part 2 (Vibration), and are considered robust and appropriate. In addition, Table 26.1 of ES Chapter 26 [\[REP4a-021\]](#) confirms that both operational and construction noise assessments have incorporated the necessary mitigation measures, reducing potential adverse impacts as far as reasonably practicable. Consequently, the ExA agrees with the applicant's assessment in ES Chapter 26 Onshore Noise and Vibration [\[REP4a-021\]](#), concluding that the residual effects of the proposed development on these matters would be 'minor adverse' (Not Significant) at any phase of the proposed development.

3.19.41. The ExA is satisfied that the applicant demonstrates the proposed development's noise and vibration effects can be satisfactorily mitigated and managed, and that appropriate mitigation would be secured, such as requirement 25 (Control of Noise during the Operational Phase) and final NVMP via requirement 18 (Code of Construction Practice) of the final dDCO [\[AS-042\]](#).

3.19.42. Following the examination, the ExA concludes that the applicant's assessment of the proposed development both individually and cumulatively with respect to noise

and vibration effects is in accordance with the requirements of NPS EN-1, NPS EN-3, and NPS EN-5, as well as the Noise Policy Statement for England, the NPPF, and associated government planning guidance on noise. The assessment also aligns with relevant national and local policies and legislation concerning noise and vibration, and the ExA identifies no additional significant or relevant considerations.

- 3.19.43. While the applicant's assessment concludes that noise and vibration effects would not be significant and that appropriate mitigation measures are secured in accordance with relevant policies, the ExA recognises that some residual minor adverse effects would remain particularly during the construction phase due to activities such as the use of heavy plant and construction traffic in proximity to noise-sensitive receptors. Therefore, in the [planning balance](#), the ExA attaches a little weight to noise and vibration effects against the making of the Order.

3.20. SOCIO-ECONOMIC EFFECTS

Introduction

3.20.1. This section considers the effects of the proposed development on socio-economics, tourism and recreation. Socio-economic effects on agriculture and the UK vegetable market are considered in the Land Use, Geology and Ground Conditions section of this recommendation.

3.20.2. In its consideration of socio-economic, tourism and recreation effects below, the Examining Authority (ExA) has had regard to:

- National Policy Statement for Energy EN-1 (NPS EN-1) as set out in section 5.13
- National Policy Statement for Renewable Energy (NPS EN-3), as set out in section 2.8
- National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) as set out in section 2.9
- the National Planning Policy Framework (NPPF)
- Local Impact Reports (LIRs) submitted by Lincolnshire County Council (LCC) and a joint LIR from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC)
- South East Lincolnshire Local Plan (2019)
- ELDC Core Strategy (2018)
- any matters prescribed in relation to the development
- any other important and relevant matters.

The applicant's case

3.20.3. The applicant's assessment of socio-economic effects is set out in the Environmental Statement (ES) in Chapter 29 Socio-economic Characteristics [\[APP-084\]](#) and is supported by Chapter 29 Socio-economic Characteristics Figures [\[APP-137\]](#).

3.20.4. The cumulative impact assessment for socio-economic effects is covered in ES Chapter 29 section 29.9.

Scope and Methodology

3.20.5. The applicant's approach to establishing the extent of study areas for socio-economic impacts is set out in ES Chapter 29 [\[APP-084\]](#) section 29.4. The applicant quantifies economic impacts across three onshore study areas:

- the Local Economic Area (LEA)
- the Regional Area
- UK level

3.20.6. The onshore Local Tourism and Recreation Area is defined based on the potential locations of activities that could have an impact on tourism and recreation assets and includes the combined local authority areas of South Holland, East Lindsey and Boston.

3.20.7. The applicant defines the offshore recreation study area as the offshore export cable corridor (ECC), the offshore array, up to two artificial nesting structures, biogenic reef compensation areas and a 15km buffer around these as shown in figure 29.3 [\[APP-137\]](#). Recreational activity such as recreational sailing and boating,

recreational angling, scuba diving and other general recreational activities are described within this study area.

- 3.20.8. The applicant sets out the strategic context for the existing socio-economic environment in section 29.4.3 [\[APP-084\]](#), including the Greater Lincolnshire Local Economic Partnership Local Industrial Strategy and the Hull and East Yorkshire Economic Strategy which discuss offshore wind as an important development sector. The applicant goes on in this section to set out the socio-economic baseline in terms of population, economic activity, industrial structure, Gross Value Added (GVA), qualifications, housing and pupil teacher ratios.
- 3.20.9. The maximum design scenario (MDS) for socio-economic effects is summarised in table 29.21 [\[APP-084\]](#) for construction, operation and decommissioning.
- 3.20.10. The applicant acknowledges in paragraph 148 [\[APP-084\]](#) that the exact levels of expenditure associated with the proposed development are unknown and the assessment therefore considers the MDS of the “*lowest realistic levels of expenditure associated with the project.*”

The applicant’s assessment of effects and its proposed mitigation

- 3.20.11. Proposed embedded mitigation specific to socio-economic effects is set out in section 29.6 [\[APP-084\]](#) and includes the following measures to maximise local economic benefit:
- engaging with local economic development stakeholders and industry groups to understand the capacity for local companies to be involved in the supply chain for the project
 - supporting Tier 1 contractors to increase their local content, through the hosting of events to provide local businesses with the opportunity to engage
 - working with local economic development stakeholders to identify potential barriers to entry into this market and actively working to remove such barriers
 - engaging at an early stage with education and training providers to identify potential skills gaps and opportunities for collaboration
 - engaging with other developers in the area to improve opportunities for the local supply chain
 - including reporting requirements on the level of UK content as part of the tendering process for contracts
- 3.20.12. The applicant considers that measures to minimise negative impacts during construction would be included within project specific plans such as the Outline Noise and Vibration Management Plan [\[APP-269\]](#), the Outline Construction Traffic Management Plan [\[APP-289\]](#) and the Outline Public Access Management Plan [\[APP-291\]](#).
- 3.20.13. ES Chapter 29, section 29.8 [\[APP-084\]](#) sets out the applicant’s impact assessment. During the lifetime of the proposed development, the applicant estimates an investment of between £5 billion and £7 billion (the applicant’s Compulsory Acquisition funding statement [\[APP-026\]](#) provided an upper range of £7.5 billion), of which £2.7 billion would be invested during the development and construction phase. Table 29.30 [\[APP-084\]](#) shows the proposed development generating a minimum £129 million GVA in the LEA (0.3% of current GVA), £153 million in the regional area and £357 million across the UK (less than 0.1% of current UK GVA) during construction.

- 3.20.14. The applicant concludes in paragraph 203 [\[APP-084\]](#) that the effect of construction on the economy of the LEA would be minor (not significant) and the effect on the economy of the UK would be negligible (not significant). The effect remains not significant during the operational phase and during decommissioning.
- 3.20.15. Similarly, the applicant concludes in section 29.8 [\[APP-084\]](#) no significant effects on the following during construction, operation and decommissioning:
- increase in employment
 - social and community assets
 - tourism economy
 - tourism and recreation assets

Cumulative Impact Assessment

- 3.20.16. The applicant's cumulative impact assessment for socio-economic effects is set out in section 29.9 of ES Chapter 29 [\[APP-084\]](#) and the other developments considered within the assessment are set out in Table 29.57. The applicant considers that the cumulative effect of the other developments in terms of economic impacts will be a significant level of demand for services and goods to support the offshore wind energy sector and the wider construction sector for onshore projects. This would include demand for port services, vessels, manufacturing facilities and skills development.
- 3.20.17. For cumulative tourism impacts and cumulative social and community assets impacts, the applicant concludes that the significance of negative effects would be not significant.
- 3.20.18. Cumulative impacts on the UK vegetable market are assessed in the Land Use, Geology and Ground Conditions section of this recommendation.

Issues considered during the examination

- 3.20.19. Based on the comments raised by Interested Parties (IP) and the ExA's review of the application documents, the key issues considered during the examination were:
- securing socio-economic benefits
 - tourism impacts of construction traffic
 - electromagnetic field (EMF) impacts on Newfield Farm Fishing Lakes caravan park

Securing socio-economic benefits

- 3.20.20. The ExA questioned the applicant [\[PD1-013\]](#) to further understand how proposed socio-economic benefits would be secured. The applicant's response [\[REP2-051\]](#) clarified that draft Development Consent Order (dDCO) Requirement 30 secures the submission of a Skills, Supply Chain and Employment Plan. The applicant confirmed that the measures set out in paragraph 107 of ES Chapter 29 [\[APP-084\]](#) would be kept under review and the most appropriate and beneficial measures would be carried forward in discussion with the relevant planning authority and LCC.
- 3.20.21. The ExA was satisfied with the applicant's response and did not pursue this matter further within the examination.

Tourism impacts of construction traffic

- 3.20.22. LCC's LIR [\[REP1-053\]](#) identified the impact of construction on tourism to be potentially negative and suggested that further consideration should be undertaken to identify the locations that are more sensitive from a tourism perspective and to plan for construction activities in these areas to take place outside of the main tourism season (April to September).
- 3.20.23. LCC's response to the ExA's request for further clarification in ExQ1 [\[REP2-069\]](#) specified its main areas of concern to be the beaches and coastal resorts. LCC was particularly concerned that the perception of Lincolnshire as a tourist destination may be detrimentally impacted by construction activities, such as, the potential of increased congestion due to additional heavy goods vehicles (HGVs) on the road network.
- 3.20.24. The applicant's Responses to Host Authorities Local Impact Reports [\[REP2-052\]](#) Table 1.1 paragraph 10.8 highlighted that *"the most likely months when construction traffic associated with the Project might be expected in the peak hours on the highway network is in the winter months, due to the availability of daylight (see 6.3.27.1 ES Chapter 27 Appendix 1 Transport Assessment Annex K [AS1 093]), not during periods of increased baseline traffic due to tourism"*
- 3.20.25. Paragraphs 15.22, 15.23 and 15.26 of Table 1.1 [\[REP2-052\]](#) and the applicant's Comments on Responses to ExQ1 [\[REP3-054\]](#) stated that the applicant's assessment, based on how the key drivers of the tourism sector in the area are likely to be impacted, has concluded that there would be no significant effects on tourism as a result of the construction of the project. The applicant went on to state that data from across the UK shows that the construction of onshore energy and grid infrastructure does not have a significant impact on tourism. *"This is because either the construction of this infrastructure does not change the perception of a destination, or visitors are not sensitive to these perceptions. The applicant is not aware of any evidence that supports the LCC's position that the development would dissuade potential tourists from visiting Lincolnshire."* [\[REP3-054\]](#)
- 3.20.26. LCC's response to the ExA's further question at ExQ2 [\[REP4-133\]](#) confirmed that LCC had no further comments to make on this point and accepted the evidence the applicant had put forward to address this point satisfactorily.

The ExA's reasoning on tourism impacts of construction traffic

- 3.20.27. The ExA has been provided with no substantive evidence to demonstrate that the perception of Lincolnshire as a tourist destination may be detrimentally impacted by construction activities. NPS EN-1 paragraph 5.13.10 states that *"the Secretary of State may conclude that limited weight is given to assertions of socio-economic impacts that are not supported by evidence."* From the evidence provided, the ExA is satisfied that the effects on tourism during construction would not be significant.

EMF impacts on Newfield Farm Fishing Lakes caravan park

- 3.20.28. Julie Anne Mason's written representation [\[REP1-051\]](#) raised concerns regarding the impact of EMF from the onshore ECC underneath their proposed caravan park. Particular concerns were raised regarding the effect on the saleability of the caravans due to public perception of EMF impacts.
- 3.20.29. ExQ1 [\[PD-013\]](#) requested the applicant to show evidence of compliance with the International Commission for Non-Ionizing Radiation Protection (ICNIRP) 1998

guidelines in relation to the proposed caravan park. The applicant's response [\[REP2-051\]](#) stated that the applicant undertook an EMF project assessment for the entirety of the route and concluded that all the electrical connection options assessed produced magnetic fields significantly below the ICNIRP public exposure limits. The applicant stated that this therefore met the criteria and was agreed to be scoped out of the ES by the Planning Inspectorate in its Scoping Opinion.

- 3.20.30. Nevertheless, the applicant confirmed [\[REP2-051\]](#) that it had carried out a further EMF assessment for the ECC under the caravan park, a copy of which was included within [REP1-051](#). This confirms that the maximum magnetic field produced by the ECC circuits above the caravan park would be comparable or lower in size to the magnetic fields produced by normal domestic appliances. The conclusion of the report states that: "... *the maximum EMF produced is significantly less than the relevant exposure limit*" and that "*All the electrical connection options assessed produced magnetic fields significantly below the ICNIRP public exposure limits. The maximum fields were only 0.39% of the exposure limit.*" The applicant considered that it had demonstrated that EMF should therefore not be an area of concern.
- 3.20.31. Julie Anne Mason's submission at the close of examination [\[REP6-130\]](#) focused primarily on the matter of financial compensation which is not a matter for consideration as part of this recommendation.

The ExA's reasoning on EMF impacts on Newfield Farm Fishing Lakes caravan park

- 3.20.32. The ExA considers that the applicant has adequately assessed the EMF impacts of the proposed ECC under the caravan park in line with ICNIRP guidelines and has demonstrated that magnetic fields would be below the ICNIRP exposure limits. This evidence should provide reassurance to the public relating to EMF impacts and the perception of harm.

Conclusions

- 3.20.33. The ExA considers that the applicant has properly considered the relevant socio-economic impacts and has demonstrated that the proposed development would be consistent with EN-1 paragraphs 5.13.2 to 5.13.6.
- 3.20.34. The ExA is satisfied that the applicant has included a requirement that specifies the approval by the local authority of an employment and skills plan detailing arrangements to promote local employment and skills development opportunities in line with NPS EN-1 paragraph 5.13.12.
- 3.20.35. An investment of £5 to £7 billion (£7.5 billion outlined in the funding statement) is anticipated for the proposed development and cumulative economic and employment benefits have been identified alongside other developments to support the offshore wind energy sector and the wider construction sector for onshore projects.
- 3.20.36. The ExA concludes that there would not be any significant adverse effects in relation to socio-economic effects from the proposed development alone and cumulatively.
- 3.20.37. The ExA considers that the economic and employment benefits of the proposed development carry a little weight for the project alone and moderate cumulatively in favour of the Order being made and all other socio-economic effects would not affect the [planning balance](#).

3.21. CLIMATE CHANGE

Introduction

- 3.21.1. This section assesses the effects of the proposed development on climate change, focusing specifically on greenhouse gas (GHG) emissions. The resilience of the proposed development to the effects of climate change particularly in relation to flood risk and surface water management is addressed in other sections of this Recommendation, including section 3.17: Onshore Water Environment, which considers the application of climate change allowances, such as increased rainfall intensity and flood risk, in accordance with the requirements of Overarching National Policy Statement for Energy EN-1 (NPS EN-1) and National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3).
- 3.21.2. In its consideration of effects on climate change, the ExA has had regard to:
- Overarching National Policy Statement for Energy EN-1 (NPS EN-1), as set out in Section 5.12
 - National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3), as set out in Section 2.4
 - National Policy Statement for Electricity Networks Infrastructure EN-5 (NPS EN-5), as set out in Section 2.3
 - the National Planning Policy Framework (NPPF)
 - Local Impact Report (LIR) submitted by Lincolnshire County Council (LCC) and a joint LIR from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC)
 - the South East Lincolnshire Local Plan 2011-36
 - the East Lindsey Local Plan Core Strategy 2018
 - Levelling-up and Regeneration Act 2023
 - the British Energy Security Strategy 2022
 - the Climate Change Act 2008 (2050 Target Amendment) Order 2019
 - any matters prescribed in relation to the proposed development
 - any other important and relevant matters

The applicant's case

- 3.21.3. The applicant submitted several relevant documents in relation to climate change to accompany the application, including the following:
- Environmental Statement (ES) Chapter 31 Climate Change [[APP-086](#)]
 - ES Chapter 31 Climate Change Figures [[APP-139](#)]
 - ES Chapter 31 Climate Change Appendices [[APP-234](#)]
- 3.21.4. ES Chapter 31 [[APP-086](#)] cross-references several other chapters that provide relevant context for the assessment of climate change. These include:
- Chapter 2 Need, Policy & Legislative Context [[APP-057](#)]
 - Chapter 3 Project Description [[APP-058](#)]
 - Chapter 4 Site Selection and Consideration of Alternatives [[APP-059](#)]
 - Chapter 24 Onshore Hydrology, Hydrogeology and Flood Risk [[APP-079](#)]

Scope and Methodology of the applicant's GHG assessment

- 3.21.5. ES Chapter 31 [APP-086] states that the assessment has been undertaken using a Life Cycle Assessment (LCA) technique in accordance with ISO 14040:2006 - Environmental management — Life cycle assessment — Principles and framework, and ISO 14044:2006 - Environmental management — Life cycle assessment — requirements and guidelines. Furthermore, the ES defines LCA as the “*compilation and evaluation of the inputs, outputs, and the potential environmental impacts of a product system throughout its life cycle.*”
- 3.21.6. The relative contributions of various GHGs to climate change are measured by their global warming potential (GWP), relative to carbon dioxide, as set out in ES Chapter 31 [APP-086]. GWP varies with the timeframe of analysis, typically over 20 to 500 years, with the standard for international reporting being 100 years (GWP100). The assessment uses GWP factors from the Fifth Assessment Report (AR5) of the Intergovernmental Panel on Climate Change (IPCC), ensuring all significant GHGs are included in the calculations.
- 3.21.7. During and after an assumed 35 years of operation, as referenced in ES Chapter 31 [APP-086], the GHG assessment considers emissions across the lifetime of the proposed development, covering the construction, operation and maintenance, and decommissioning phases, defined across six key life cycle stages:
- raw materials
 - manufacturing
 - installation
 - operation
 - freight
 - end of life
- 3.21.8. Paragraph 31 of ES [APP-086] states that the proposed development considers four possible Wind Turbine Generator (WTG) foundation types. However, initial assessments indicate that jacket/pile foundations and gravity-based structures (GBSs) require significantly more concrete and steel than monopile or suction bucket foundations. Therefore, to ensure a worst-case scenario approach, the applicant's assessment is based on two WTG foundation scenarios: a 50:50 combination of jacket/pile foundations and GBSs, and 100% jacket/pile foundations.
- 3.21.9. Table 31.4 of ES [APP-086] lists the main components used in the raw materials stage, and for a worst-case analysis, the assessment assumes that these materials contain no recycled content and are produced from newly extracted materials.
- 3.21.10. Table 31.5 of ES [APP-086] includes estimated greenhouse gas emissions—referred to as manufacturing burdens—associated with producing key wind farm components from raw materials. The applicant further explains that obtaining detailed data for all components was not practical; therefore, manufacturing burdens were estimated for key materials—particularly steel—under the two WTG foundation scenarios.
- 3.21.11. The installation stage of the assessment, as detailed in ES [APP-086], involves transport requirements from the source to the site. Table 31.6 outlines the typical single-trip distances for various vessels, while table 31.7 provides estimates of the total movements and activities for these vessels. Additionally, the piling work necessary for constructing the wind farm is estimated to require 1,800 Terajoule (TJ) of energy, assumed to be delivered by diesel with a Net Calorific Value (NCV) of 43 Gigajoule/tonne (GJ/t).

- 3.21.12. The assessment also includes the freight required to transport construction and maintenance materials and to remove materials for recycling or disposal at the end of the project's life, with Table 31.10 [APP-086] detailing the estimated total additional freight movements, measured in thousands of tonne-kilometres (ktkm) by road and sea, for the two foundation scenarios outlined in ES Chapter 31.

The applicant's GHG assessment

- 3.21.13. The GHG assessment results in ES [APP-086] show that the 100% jacket/pile foundation scenario results in 6.27 million tonnes of carbon dioxide equivalent (tCO₂e), while the 50:50 combination of jacket/pile foundations and gravity-based structures scenario results in 5.22 million tCO₂e. The 50:50 combination of jacket/pile foundations and gravity-based structures would have a smaller impact than the 100% jacket/pile foundation scenario. The applicant's assessment also indicates that materials and their manufacturing contribute more than 85% of the total CO₂e for the proposed development, while transport and operation impacts are described by the applicant as relatively insignificant.
- 3.21.14. ES Chapter 31 [APP-086] indicates that the proposed development, with an installed capacity of 1.5 Gigawatt (GW) and a load factor of 40.58%, is expected to generate approximately 187,000 Gigawatt-hour (GWh) of electricity over a 35-year period. The carbon emissions for the proposed development, considering a 50:50 foundation split, are estimated at 5.2 million tCO₂e, resulting in an average carbon intensity of 28.0 grams of carbon dioxide equivalent per kilowatt-hour (gCO₂eq/kWh) over the project's lifecycle. For a 100% jacket/pile foundation, the carbon intensity increases slightly to 33.6 gCO₂eq/kWh. Carbon intensity is calculated by dividing the total lifetime greenhouse gas emissions by the total lifetime electricity generation, providing a measure of the proposed development's emissions efficiency.
- 3.21.15. ES [APP-086] states that the proposed development is expected to generate approximately 5,332GWh of electricity annually, which would offset around 1.9 million tCO₂eq if displacing gas-fired generation, or 2.3 million tCO₂eq if displacing all non-renewable sources. Based on this, the applicant estimates a carbon 'pay back' period of approximately two to three years for the GHG emissions associated with construction. Thereafter, the proposed development would continue to deliver net GHG savings over its operational life.
- 3.21.16. Sensitivity testing in the ES [APP-086] assesses an optimistic load factor of 52.9%, which increases production to 6,951GWh for the 50:50 foundation scenario, reducing the payback period to 1.8-2.0 years, against the conservative load factor of 40.58%. Alternatively, a 10% reduction in electricity generation lowers production to 4,799GWh, extending the payback period to 2.6-2.9 years. To address uncertainties about materials, doubling the material burdens results in taking 4.5-5.1 years to pay back the carbon burden as detailed in section 31.7.5 of ES [APP-086]. Despite these sensitivity tests, the proposed development's carbon payback period remains around 5 years, significantly shorter than its 35-year operational life.
- 3.21.17. Transboundary climate change effects from the proposed development were scoped out of the assessment as per the paragraph 9.2.24 of the scoping opinion of the Planning Inspectorate. In ES Chapter 31 [APP-086], the applicant assesses GHG emissions in the context of the UK's carbon budgets, reflecting their inherently cumulative nature. On this basis, the applicant has not included GHG emissions as a separate element within the cumulative effects assessment chapter.

Issues considered during the examination

- 3.21.18. During the course of the examination, the applicant submitted a revision to ES Chapter 31: Climate Change [\[REP5-011\]](#).
- 3.21.19. Based on comments raised by interested parties (IPs) and on the ExA's review of the application documents, the key issues considered during the examination were:
- Use of Sulphur Hexafluoride (SF₆) and compliance with NPS EN-5
 - Carbon Payback Period

Use of Sulphur Hexafluoride (SF₆) and compliance with NPS EN-5

- 3.21.20. Sulphur Hexafluoride (SF₆) is a potent greenhouse gas with a global warming potential significantly greater than that of carbon dioxide. Its use in electrical infrastructure, such as switchgear, raises concerns due to the potential for emissions during operation and decommissioning. In line with the expectations set out in NPS EN-5, which advises applicants to consider whether reliance on SF₆-based assets can be avoided at the design stage, the ExA raised First Written Question (ExQ1) [\[PD-013\]](#) Q1CC1.1 regarding the proposed use of SF₆ in project components, including the turbines and Onshore Substation (OnSS), as detailed in ES Chapter 31 [\[APP-086\]](#), Tables 31.4 and 31.9.
- 3.21.21. In response [\[REP2-051\]](#), the applicant responded that SF₆ may be the only practicable option for some engineering designs, such as the Offshore Reactive Compensation Platform (ORCP) and OnSS designs, due to current and expected technological limitations and supply chain constraints. Additionally, the applicant confirms that the decommissioning plans will be submitted in accordance with the final Development Consent Order (DCO) requirements, including monitoring and de-gassing plans for any SF₆ equipment, complying with the Energy Act 2004 and relevant guidance or legislation in force at the time of decommissioning.

ExA's reasoning

- 3.21.22. In response [\[REP2-051\]](#), the applicant confirmed it will review SF₆-free technologies during the design phase and intends to use SF₆ solutions only where no practicable alternatives exist. While this commitment is not explicitly secured in the final dDCO, schedule 1, Part 3, requirement 9 [\[AS-042\]](#) ensures that construction of the OnSS cannot commence until detailed design parameters are approved by LCC, in consultation with the relevant planning authority. This places responsibility on LCC to ensure the applicant's commitment about SF₆ is reflected in the approved design.

Carbon Payback Period

- 3.21.23. The applicant addressed the issue of wake effects, which refers to the impact of the proposed development on the wind flow and energy yield of nearby offshore wind farms, in detailed submissions on Wake Loss Matters at deadline 6 (D6) [\[REP6-120\]](#), specifically in relation to how these effects could influence the estimated electricity generation and, consequently, the carbon payback period of the proposed development. In paragraph 46 the applicant states that *"The applicant has maintained throughout the Examination that wake effects arising from the project cannot be said to be significant in EIA terms or material in policy terms."* This position is supported by various studies submitted by the applicant, including the Array Layout Yield Study [\[REP2-056\]](#), Wake Loss Technical Note [\[REP4-114\]](#), and Wood Thilsted Wake Impact Assessment Report [\[REP5-152\]](#).

- 3.21.24. Despite objections from nine interested parties (IPs) listed in paragraph 13 of [\[REP6-120\]](#) on the grounds of wake loss effects, the applicant maintains that the wake effects are less than 1% and not significant in Environmental Impact Assessment (EIA) terms. The ExA considers the detailed issue of wake effects in the Oil, Gas and Other Offshore Infrastructure section 3.7 of this Recommendation. However, the impact on GHG emissions is considered here in this section based on the applicant's updated ES Chapter 31 at deadline 5 [\[REP5-011\]](#).
- 3.21.25. In the context of ES Chapter 31 Volume 3 Appendix 31.1 Carbon Payback Sensitivity Analysis: Wake Effects [\[REP5-100\]](#), table 31-13 and table 31-14 [\[REP5-011\]](#) illustrate the total carbon savings and payback duration changes under the 0.5% and 1% wake effect scenarios, respectively, considering both foundation scenarios. With 100% jacket/pile foundation, the carbon payback period would increase from 2.4 to 3.3 years when considering a 0.5% reduction in electricity production by neighbouring offshore wind farms (OWFs), and from 2.6 to 3.5 years in the 1% scenario. This demonstrates that the proposed development would still result in a positive GHG emissions reduction during its operational life and contribute to achieving the UK's net zero target.
- 3.21.26. In their closing statement [\[REP6-135\]](#), the Ørsted IPs argued that the applicant's carbon payback assessment is deficient because it fails to consider realistic worst-case scenarios, such as the Lifetime Extension of the Ørsted IPs' assets and the potential for early decommissioning due to the proposed development, and they also indicate that their assets are likely to remain operational beyond 24/25 years. In response, the applicant at D6 [\[REP6-120\]](#), paragraph 56, stated that it considered an extremely precautionary scenario of a 1% wake effect across all neighbouring offshore wind farms, which would increase the carbon payback period by a maximum of 0.4 years. The applicant further noted that "*Wake effects have no material bearing on the conclusions of significance for the climate assessment.*" Additionally, in paragraph 63 [\[REP6-120\]](#), the applicant explains that considering "*lifetime extension and early decommissioning of existing waked projects*" is unnecessary to update the assessment of the Carbon Payback Sensitivity Analysis, as the "*EIA is not intended to assess every possible significant effect, however unlikely.*"
- 3.21.27. In a joint LIR submitted by ELDC, BBC, and SHDC [\[REP1-052\]](#), and a separate LIR submitted by LCC [\[REP1-053\]](#), all relevant authorities recognised the positive climate impacts of the proposed development. There were no objections to the assertion that the proposed development would replace fossil fuel-based electricity generation and continue to reduce GHG emissions throughout its operational life, thereby supporting the decarbonization of the UK economy and aligning with the UK's net zero target.
- 3.21.28. The ExA is aware of the 'Finch rulings'⁷ regarding the issue of downstream GHG emissions in the ES. Although the ruling concerned fossil fuel developments, it clarified that downstream emissions may constitute indirect environmental effects where they are a likely consequence of the development. None of the IPs brought up the Finch rulings or the issue of downstream emissions during the examination.

⁷ R (on the application of Finch on behalf of the Weald Action Group) v Surrey County Council and others [2024] UKSC 20 (the Finch Case) and Friends of the Earth Limited v Secretary of State for Levelling Up, Housing and Communities, West Cumbria Mining Limited, Cumbria County Council [2024] EWHC 2349 (Admin) (the Whitehaven Case)

However, during issue specific hearing 2 (ISH2) [EV6-002, video recording], the ExA requested the applicant to assess the implications of the Finch rulings on the proposed development and to ascertain the adequacy of the assessment of GHG emissions in ES Chapter 31 [APP-086]. The potential implication for this proposal is whether any indirect or downstream emissions associated with the use of electricity generated by the proposed development should be considered within the EIA, even though the proposed development is not a source of fossil fuel extraction.

- 3.21.29. In its written response [REP3-041], appendix 1, the applicant explained that the proposed development, an OWF, fundamentally differs from fossil fuel projects like those in the Finch rulings. The applicant stated that ES Chapter 31 considered effects across the entire project lifecycle and concluded that *“there is no requirement to assess downstream GHG emissions from the project.”*

ExA’s reasoning

- 3.21.30. The applicant’s response [REP2-051] also confirms that a robust monitoring and de-gassing plan for any SF₆ equipment will be included as part of the decommissioning plans. This commitment is supported by the provisions of the final dDCO [AS-042], requirement 7 (offshore decommissioning), which secures the approval of the decommissioning programme by the Secretary of State pursuant to section 105(2) of the Energy Act 2004, and requirement 24 (onshore decommissioning), which secures the approval of the onshore decommissioning plan by LCC. On this basis, the ExA is satisfied with the applicant’s approach to the handling of SF₆ during decommissioning.
- 3.21.31. The ExA acknowledges the concerns raised by the Ørsted IPs regarding the potential impact of wake effects on neighbouring OWFs and the implications for the applicant’s carbon payback assessment. However, the ExA is satisfied that the applicant has undertaken a proportionate and precautionary assessment of this issue. While the technical detail is addressed in the previous section, the ExA considers the assessment to be both evidence-based and appropriate. Specifically, the carbon payback sensitivity analysis presented in ES [REP5-011] and appendix 31.1 [REP5-100] includes modelling of hypothetical wake effect scenarios involving 0.5% and 1% reductions in energy output from neighbouring offshore wind farms. These scenarios are informed by supporting technical studies and demonstrate that the potential influence of wake effects has been appropriately accounted for in the applicant’s assessment.
- 3.21.32. The ExA notes that even under the most conservative 1% wake loss scenario, the carbon payback period would increase only marginally from approximately 2.4–3.3 years to 2.6–3.5 years depending on the foundation scenario. The applicant considers that this increase in the carbon payback period, even under the precautionary 1% wake effect scenario, is not material in EIA terms and does not undermine the conclusion that the proposed development would deliver a net reduction in greenhouse gas emissions over its operational life. The ExA also notes that the IPs maintaining objections have not disputed the methodology or quantified outcomes of the applicant’s assessment, which consistently demonstrate that wake effects are likely to be less than 1% and not significant in EIA terms. Accordingly, the ExA considers the applicant’s carbon payback assessment to be robust and policy compliant.
- 3.21.33. The ExA considers that the projected carbon payback period of two to three years, as presented in ES Chapter 31 [APP-086], demonstrates a meaningful contribution to the UK’s decarbonisation objectives. Beyond this period, the proposed

development is expected to deliver sustained GHG reductions over its operational life, supporting the delivery of the UK's Net Zero Strategy and the legally binding 2050 target under the Climate Change Act 2008.

- 3.21.34. Paragraph 2.3.5 of NPS EN-1 highlights the UK's historical reliance on fossil fuels for its energy system, a trend that continues today. Despite reaching a record low, fossil fuels still accounted for just over 76 percent of energy supply in 2020. This emphasizes the necessity of transitioning to low carbon energy to meet climate change objectives and reduce dependence on fossil fuels, a sentiment also echoed in the LCC's LIR [\[REP1-053\]](#).
- 3.21.35. Having considered the applicant's written response [\[REP3-041\]](#), appendix 1, which confirms that *"the scope of that assessment considered impacts across the whole project lifecycle, from the production of the raw materials used to construct the facility through to the recycling or disposal of those same materials after decommissioning at the end of the project's lifetime,"* and in the absence of any substantive evidence to the contrary submitted during the examination, the ExA is satisfied that ES Chapter 31 [\[REP5-011\]](#) provides a comprehensive and proportionate assessment of GHG emissions associated with the proposed development across its full lifecycle.
- 3.21.36. The applicant states [\[REP3-041\]](#) that *"hypothetical downstream emissions which tangentially arise from the existence of the Project do not need to be assessed in the same manner as the certain GHG emissions arising from combustion of oil or coal, as in Finch and Whitehaven."* The ExA agrees with this position and considers that the nature of the proposed development, an offshore wind farm (OWF), is distinct from the fossil fuel-based projects considered in the Finch rulings. As the proposed development does not involve the extraction or combustion of hydrocarbons, there is no credible pathway for downstream greenhouse gas emissions to arise. The ExA is therefore satisfied that an assessment of downstream emissions is not required for this proposed development.

Conclusions

- 3.21.37. The ExA concurs with the assessment of the proposed development's effects on climate change as set out in ES Chapter 31 [\[REP5-011\]](#). This conclusion is based on the comprehensive and methodologically robust LCA, which assesses GHG emissions across all phases of the proposed development—construction, operation, and decommissioning. The assessment applies appropriate emissions factors, considers worst-case scenarios, and includes sensitivity testing. It demonstrates that the proposed development would achieve carbon payback within approximately two to three years of operation, with a significantly lower carbon intensity than conventional fossil fuel generation.
- 3.21.38. The ExA is satisfied that, with regard to climate change and greenhouse gas emissions, the proposed development is in accordance with NPS EN-1, NPS EN-3, and NPS EN-5, as well as other relevant national and local policies and legislation. This conclusion is based on the proposed development's alignment with key policy tests, including the urgent need for low-carbon electricity infrastructure (NPS EN-1, paragraph 3.3.13), the essential role of offshore wind in achieving net zero (NPS EN-3, paragraph 2.8.1 and NPS EN-5, paragraph 1.1.2), and the requirement to assess the GHG emissions considering a whole LCA as part of ES (NPS EN-1, paragraph 5.3.4). No other important or relevant considerations relating to climate change and greenhouse gas emissions have been identified that would outweigh the policy support for the proposed development.

- 3.21.39. The ExA finds the applicant's carbon payback assessment to be satisfactory and supported by a precautionary sensitivity analysis that accounts for potential wake effects. The assessment demonstrates that, even under a conservative 1% wake loss scenario, the proposed development would still achieve carbon payback within approximately 2.6 to 3.5 years and deliver a net reduction in greenhouse gas emissions over its operational life [\[REP5-011\]](#) [\[REP5-100\]](#).
- 3.21.40. The ExA notes that the policy treatment of wake effects in relation to other offshore infrastructure is currently the subject of wider consideration, including in the context of other offshore wind farm DCO examinations and the draft NPS EN-3 (April 2025). Should the Secretary of State adopt a different policy approach to wake effects in future decisions, this could potentially influence how carbon payback is assessed in similar cases. However, based on the evidence presented during this examination and the extant policies and legislation, the ExA considers that the applicant's assessment is proportionate, robust, and policy compliant. Therefore, no further reassessment of the carbon payback period is considered necessary for the purposes of this Recommendation.
- 3.21.41. In summary, the ExA concludes that the proposed development would contribute positively to climate change mitigation, both in isolation and cumulatively with other offshore wind developments. However, these benefits are considered to be inherently captured within the very great positive weight already attributed to the need for energy, as set out in NPS EN-1. Accordingly, the ExA does not assign additional weight to climate change effects separately in overall [planning balance](#), in order to avoid double counting.

3.22. CUMULATIVE AND INTERRELATED EFFECTS

Introduction

3.22.1. This section considers both cumulative and interrelated effects. Cumulative effects were considered by the applicant on a topic-by-topic basis and reported as such in the Environmental Statement (ES). Where cumulative effects were identified these have been considered in the individual topic sections of the Recommendation and are not repeated here. This section therefore considers:

- whether cumulative effects have been sufficiently assessed alongside other plans, projects and on-going activities; and
- the accumulation of, and interrelationship between, effects arising from the proposed development.

3.22.2. In its consideration of cumulative effects below, the Examining Authority (ExA) has had regard to:

- the Overarching National Policy Statement for Energy EN-1 (NPS EN-1), in particular section 4.3
- Local Impact Report (LIR) submitted by Lincolnshire County Council (LCC) and a joint LIR from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC)
- the East Lindsey Local Plan Core Strategy 2018
- any matters prescribed in relation to the development
- any other important and relevant matters

The application

3.22.3. The applicant's ES includes an assessment of interrelated effects across topic areas, as set out in ES Chapter 5 [\[APP-060\]](#) and detailed in appendices 5.2 and 5.3 [\[APP-147\]](#) and [\[APP-148\]](#), updated at Deadline 5 (D5) [\[REP5-064\]](#) and [\[REP5-066\]](#).

3.22.4. The assessment identifies two principal types of interrelated effects. The first are project lifetime effects, where impacts from different phases of the proposed development (construction, operation and maintenance, and decommissioning) may combine to produce a greater overall effect on a receptor than any single phase alone. The second is receptor-led effects, where multiple environmental impacts (for example, noise, air quality, visual) may act simultaneously or sequentially on a single receptor, potentially amplifying the overall effect.

3.22.5. The ES presents interrelated effects in a topic-specific manner, with each chapter identifying where such effects may arise. The applicant concludes that, based on the residual effects identified in each chapter, no significant interrelated effects are anticipated across the lifetime of the proposed development. The assessment finds that any combined or overlapping effects are either minor, temporary, or would be adequately mitigated through embedded design and management measures.

3.22.6. The cumulative effects assessment (CEA) is set out in appendix 5.2 (offshore) and appendix 5.3 (onshore) of the ES [\[APP-147\]](#) and [\[APP-148\]](#), updated at D5 [\[REP5-064\]](#) and [\[REP5-066\]](#). The applicant explains that the CEA considers other developments that may interact with the proposed development through spatial and temporal overlap, and which may affect the same receptors or environmental resources. The assessment includes projects that are operational, under construction, consented, or reasonably foreseeable, and applies a tiered screening

approach to determine relevance. The applicant states that its methodology is consistent with Planning Inspectorate Advice Note 17 (AN17) and reflects standard industry practice.

- 3.22.7. For the onshore CEA ([[APP-148](#)], [[REP5-066](#)]), the study area includes a 2 kilometre (km) buffer around the onshore Order limits, as well as the downstream extents of any watercourses intersecting the Order limits. The assessment considers a range of other Nationally Significant Infrastructure Projects (NSIPs), local planning applications, and infrastructure schemes that may give rise to cumulative effects in combination with the proposed development. The screening process applies a tiered approach based on project status, proximity, and potential for overlapping impacts.
- 3.22.8. The offshore CEA ([[APP-147](#)], [[REP5-064](#)]) identifies a number of marine developments that could interact with the proposed development, including other offshore wind farms, subsea cables, aggregate extraction areas, and oil and gas infrastructure. The assessment considers cumulative effects on marine ecology, commercial fisheries, shipping and navigation, and seascape. Projects were included where they fell within the defined Zone of Influence (Zoi) for each receptor and had potential for temporal overlap with the proposed development's construction or operation.
- 3.22.9. The applicant's offshore and onshore CEAs include detailed project lists and screening matrices. For example, annex A of appendix 5.2 and table 5.2 of appendix 5.3 set out the developments considered, their status, and justification for inclusion or exclusion. The applicant confirms that only projects subject to Environmental Impact Assessment (EIA) were considered appropriate for inclusion, which the applicant states is in line with best practice.
- 3.22.10. The ES concludes that no significant cumulative effects are expected to arise from the proposed development when considered alongside other relevant developments. Where cumulative effects are identified—such as temporary increases in traffic, visual overlap with other offshore infrastructure, or localised ecological impacts—these are assessed as not significant and are either mitigated through embedded measures or are of limited duration and scale.
- 3.22.11. No additional mitigation specific to cumulative effects is proposed beyond that already secured through the Recommended Development Consent Order (rDCO).

Examination and reasoning

- 3.22.12. Cumulative effects were identified as a principal issue in the ExA's initial assessment of principal issues (IAP1) [[PD-009](#)] annex C. The ExA has considered the applicant's assessment of alternatives primarily within section 3.2 of this Recommendation, and briefly within the Habitats Regulations Assessment (HRA) context in appendix C of this Recommendation.
- 3.22.13. The Local Impact Reports (LIRs) submitted by Lincolnshire County Council [[REP1-053](#)] and jointly by East Lindsey District Council, Boston Borough Council, and South Holland District Council [[REP1-052](#)] acknowledged cumulative effects across several topic areas. While neither LIR included a dedicated section, LCC's LIR [[REP1-053](#)] referenced cumulative impacts within ecology, landscape, transport, and cultural heritage. It highlighted concerns about combined ecological disturbance, landscape transformation from multiple infrastructure projects, increased traffic pressures from overlapping NSIPs, and risks to heritage assets due

to insufficient archaeological evaluation. Additional cumulative concerns were raised regarding agricultural land loss, tourism disruption, and public health during construction, with recommendations for coordinated mitigation and monitoring.

- 3.22.14. The ExA examined the applicant's CEA methodology and findings in light of the requirements of NPS EN-1, the EIA Regulations, and AN17. The ExA notes that the applicant has adopted a transparent and proportionate approach to identifying relevant projects, defining spatial and temporal boundaries, and assessing potential cumulative and interrelated effects.
- 3.22.15. The ExA asked the questions to the applicant [\[PD-013\]](#) Q1GC2.1 for updates to the assessment of cumulative effects and several other topic-based questions (for example Q1BE2.6, Q1HRA1.3, Q1OR1.1, Q1OG1.4, Q1OG1.10, Q1OC1.3, Q1SN1.2, Q1TT1.6) to justify its approach to CEA, and corresponding mitigation with reference to AN17.
- 3.22.16. In response to these questions, the applicant provided detailed justifications and updates in examination, with several examples illustrating how cumulative effects were assessed and mitigated. For instance, in relation to the ExA's First Written Questions (ExQ1) [\[PD-013\]](#) Q1TT1.6, LCC raised concerns in [\[RR-004\]](#) and [\[REP1-053\]](#) about cumulative traffic impacts on the A16 and A158, particularly if multiple NSIPs, including the National Grid schemes and Ossian Offshore Wind Farm, were delivered concurrently. LCC argued that conventional planning assumptions were inadequate for nationally significant infrastructure and warned of risks to highway capacity. Following the ExA's request at the preliminary meeting, the applicant submitted a Report on the inter-relationship with other infrastructure projects at D2 [\[REP2-055\]](#), outlining known NSIPs and potential cumulative impacts. This issue was discussed during hearings and explored throughout the examination. At D6, the applicant submitted a final version of the report [\[REP6-100\]](#), providing further detail on timelines, spatial overlaps, and coordination mechanisms. This matter is addressed in section 3.18 of this Recommendation.
- 3.22.17. Another example: in response to ExQ1 [\[PD-013\]](#) Q1OR1.1 and Q1 HRA1.3, the applicant clarified how the Sheringham Shoal and Dudgeon Extension Projects (SEP and DEP), for which the Order was made on 17 April 2024, were accounted for in the ES, and how updates to in-combination assessments would be handled during the examination. The applicant confirmed that SEP and DEP had been considered in the cumulative assessments using values derived from their submitted documentation, including Natural England's (NE) approach values. However, the applicant noted that the Order included a restricted build area not reflected in the original values used, and that a Non-Material Change had been submitted for SEP and DEP which could alter their contribution to cumulative impacts. In response to NE's D1 comments [\[REP1-061\]](#), the applicant clarified in [\[REP2-051\]](#) that it did intend to update its in-combination assessments during the examination as more finalised data from other relevant projects became publicly available. This included updates for key NSIPs such as Dogger Bank South, Five Estuaries, North Falls, Rampion 2, and SEP and DEP. The applicant also referred to its response to Q1GC2.1 [\[REP2-051\]](#) regarding cumulative effects in the EIA context. The updated in-combination assessment, incorporating revised values from these projects, was submitted to ensure that cumulative effects on offshore and intertidal ornithology, particularly for species such as gannet and auk, were reassessed using the most current and relevant data available during the examination.

- 3.22.18. These examples demonstrate that the applicant's approach to cumulative effects was actively examined across multiple topic areas, with relevant responses and refinements provided throughout the examination process.
- 3.22.19. The ExA is satisfied that the CEA has been appropriately integrated into the topic-specific assessments within the ES. The cumulative effects of the proposed development have been considered in relation to key environmental receptors, including, for example:
- Marine ecology and ornithology, where cumulative disturbance and displacement effects were assessed in combination with other Offshore Wind Farms.
 - Commercial fisheries and shipping, where spatial overlap and navigational risk were considered.
 - Landscape and seascape, particularly in relation to the cumulative visibility of the proposed development with other offshore infrastructure.
 - Land use, including the cumulative loss of agricultural land resulting from multiple infrastructure developments.
 - Traffic and transport, where cumulative construction-phase impacts were assessed in relation to other infrastructure projects in the area.
 - Noise and air quality, where overlapping construction activities were considered in relation to sensitive receptors.
- 3.22.20. Some topic-specific concerns regarding cumulative effects were raised by local authorities and IPs, particularly in relation to traffic, visual, and ecological impacts. These were addressed within the relevant ES chapters and through the applicant's responses during the examination. The ExA reviewed the methodology for assessing cumulative effects as set out in chapter 5 of the ES [\[APP-060\]](#) and detailed in appendices 5.2 and 5.3 [\[APP-147\]](#) and [\[APP-148\]](#), as updated at D5 [\[REP5-064\]](#) and [\[REP5-066\]](#), and found that the applicant applied this approach consistently across topic areas. The methodology defines cumulative effects as those arising from the combined influence of the proposed development with other existing, approved, or reasonably foreseeable projects across all phases of the project. It includes a structured process for identifying and screening other developments within a defined ZOI and assessing cumulative impacts based on spatial and temporal overlap and receptor sensitivity. The ExA is satisfied that this approach was applied appropriately and in accordance with the methodology presented in [\[APP-147\]](#) and [\[APP-148\]](#) and updated at D5 [\[REP5-064\]](#) and [\[REP5-066\]](#).
- 3.22.21. No interested parties raised substantive concerns regarding the overall adequacy of the CEA. Some of the final Statements of Common Ground (SoCGs) confirm broad agreement with the applicant's approach and conclusions. For example, the UK Chamber of Shipping [\[REP5-138\]](#), the Maritime and Coastguard Agency [\[REP5-137\]](#), and Trinity House [\[REP5-140\]](#) each agree that all cumulative hazards identified in the ES and Navigation Risk Assessment are broadly acceptable or tolerable (i.e. not significant in EIA terms), subject to the proposed mitigation and monitoring measures. LCC [\[REP5-135\]](#) welcomed the inclusion of the inter-relationship report and acknowledged the comprehensive coverage of relevant NSIP schemes across Lincolnshire.
- 3.22.22. Based on the information submitted by the applicant and the consultation responses received, the ExA finds that the applicant's approach to cumulative and interrelated effects is consistent with best practice and meets the requirements of the EIA Regulations and NPS EN-1 particularly paragraph 4.3.19. The assessment is

robust, proportionate, and based on a clear methodology. The ExA is satisfied that the cumulative and interrelated effects of the proposed development, including project lifetime effects and receptor led effects, have been adequately identified, assessed, and addressed through appropriate mitigation where necessary.

Conclusions

- 3.22.23. The ExA acknowledges that some adverse cumulative and interrelated effects would arise from the proposed development, including effects that may occur over the project lifetime or have potential additive impacts. However, the ExA agrees with the applicant that these effects are unlikely to result in different or greater impacts than those assessed individually within the topic chapters of the ES, including the cumulative impacts of those topic areas. The mitigation measures secured through the rDCO are considered sufficient to address the minor cumulative effects identified.
- 3.22.24. The ExA considers that the applicant's assessment of cumulative and interrelated effects, as presented in the ES and updated during the examination, is adequate and accords with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and the NPS EN-1, particularly paragraph 4.3.19.
- 3.22.25. Having regard to the ExA's findings on these matters, including the conclusions reached in the individual topic assessments and the weight ascribed to them, the ExA does not consider that the accumulation or interrelationship of effects would be significant. These findings and their weightings are carried through to the overall planning balance and are not repeated here. In doing so, the ExA has also taken care to avoid attributing additional weight to cumulative or interrelated effects that are already captured within the individual topic assessments, in order to prevent double counting. Accordingly, this matter does not weigh for or against the making of the Order in the overall [planning balance](#).

4. SUMMARY OF CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

4.1. INTRODUCTION

- 4.1.1. This chapter sets out the Examining Authority's (ExA) summary of Habitats Regulations Assessment (HRA) matters. The full HRA analysis is contained in appendix C of this Recommendation.
- 4.1.2. In accordance with the precautionary principle embedded in The Conservation of Habitats and Species Regulations, 2017, (as amended) (The Habitats Regulations), consent for the proposed development may be granted only after having ascertained that it will not adversely affect the integrity of any European site and no reasonable scientific doubt remains.
- 4.1.3. The ExA has been mindful throughout the examination of the need to ensure that the Secretary of State (SoS) has such information as may be reasonably required to carry out their duties as the competent authority. The ExA has sought evidence from the applicant and relevant interested parties, including Natural England (NE) as the appropriate nature conservation body, through the following measures:
- written questions
 - issue specific hearings
 - the ExA's Report on the Implications for European Sites [\[PD-022\]](#)
 - rule 17 requests for further information

4.2. HABITATS REGULATIONS ASSESSMENT IMPLICATIONS

- 4.2.1. The proposed development is not directly connected with or necessary to the management of a European site. Therefore, the SoS must make an appropriate assessment of the implications of the proposed development on potentially affected European sites in light of their conservation objectives.
- 4.2.2. The applicant's assessment of effects is presented in the following documents:
- Habitats Regulations Assessment Screening Report [\[APP-239\]](#) [\[REP4-037\]](#)
 - Report to Inform Appropriate Assessment (RIAA) [\[APP-235\]](#) [\[AS1-095\]](#) [\[REP4-030\]](#) [\[REP5-101\]](#) [\[REP6-028\]](#)
 - Report to Inform Appropriate Assessment Appendix 1: Screening Matrices [\[APP-240\]](#) [\[AS1-101\]](#) [\[REP4-039\]](#)
 - Report to Inform Appropriate Assessment Integrity Matrices [\[APP-241\]](#)
 - [\[AS1-097\]](#) [\[REP4-041\]](#)

4.3. SUMMARY OF HABITATS REGULATIONS ASSESMENT MATTERS CONSIDERED DURING THE EXAMINATION

- 4.3.1. The main HRA matters considered during the examination include the following:
- potential impacts on ornithological qualifying features of European sites
 - potential impacts on marine mammal qualifying features of European sites
 - potential impacts on Annex 1 habitat and supporting habitat for European qualifying sites
 - potential loss or disturbance to land functionally linked to a European site

4.4. SUMMARY OF FINDINGS IN RELATION TO ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

- 4.4.1. The European sites and all qualifying features for which the applicant concluded no likely significant effects (LSE) are listed in the HRA Report Screening Matrices [\[REP4-039\]](#), within the applicant's HRA Screening Report [\[REP4-037\]](#) and in the RIAA Appendix 1: Screening Matrices [\[REP4-041\]](#).

4.5. SUMMARY OF FINDINGS IN RELATION TO ADVERSE EFFECTS ON INTEGRITY

- 4.5.1. At the close of the examination the ExA has concluded that an adverse effect on integrity (AEol) can be ruled out for the project alone on all qualifying features for the following European sites:

- North Norfolk Sandbanks and Saturn Reef SAC
- The Wash and North Norfolk Coast SAC
- Humber Estuary SPA and Ramsar site (ornithological features only)
- Humber Estuary SAC (migratory fish, onshore ecology and onshore ornithology features only)
- Gibraltar Point SPA and Ramsar site
- The Wash SPA and Ramsar site
- Southern North Sea SAC
- Berwickshire and North Northumberland Coast SAC
- Alde-Ore Estuary SPA
- Greater Wash SPA and Ramsar site
- Flamborough and Filey Coast SPA
- Farne Islands SPA
- North Norfolk Coast SPA and Ramsar site
- Coquet Island SPA
- Scottish SPAs
- Saltfleetby-Theddlethorpe Dunes and Gibraltar Point SAC

- 4.5.2. However, the ExA's findings are that AEol cannot be ruled out on the following sites and relevant qualifying features:

- Inner Dowsing Race Bank North Ridge SAC – Annex I Sandbanks and reef features - project alone – physical habitat loss/disturbance, suspended sediment/deposition and changes to physical processes
- Inner Dowsing Race Bank North Ridge SAC – Annex I Sandbanks and reef features - in-combination – suspended sediment/deposition and changes to physical processes
- Flamborough and Filey Coast SPA – kittiwake and kittiwake component of the seabird assemblage – in-combination collision risk
- Flamborough and Filey Coast SPA – razorbill and guillemot, and their component of the seabird assemblage - in-combination disturbance and displacement
- The Farne Islands SPA – guillemot and guillemot component of the seabird assemblage – in-combination disturbance and displacement

- 4.5.3. Based on the findings of the examination, the ExA is satisfied that AEol can be excluded from all other sites and qualifying features from the proposed development in-combination with other plans or projects.

4.6. DEROGATION CASE

- 4.6.1. The application submitted a Derogation Case in [\[APP-242\]](#) and this was updated in [\[REP4-043\]](#) and [\[REP6-036\]](#).
- 4.6.2. The ExA's full assessment of the applicant's derogation case, including its assessment of alternative solutions, a case for imperative reasons of overriding public interest (IROPI) and the proposed package of compensation measures is contained in appendix C of this Recommendation.
- 4.6.3. In summary, the ExA finds that:
- IROPI for the proposed development could be established
 - the compensation package as proposed is feasible and appropriate and is adequately secured in the applicant's final draft Development Consent Order [\[AS-042\]](#)

4.7. CONCLUSIONS

- 4.7.1. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.
- 4.7.2. The ExA's findings are that, for those European sites where an AEoI cannot be ruled out (either for the project alone or in-combination), IROPI for the proposed development could be established and the package of compensation measures is feasible, appropriate and has been adequately secured.
- 4.7.3. The ExA considers that there are several matters, as listed in appendix C of this Recommendation, where the SoS may wish to consult to obtain further information to enable them to undertake an appropriate assessment and to apply the derogation tests of The Habitats Regulations of alternative solutions, IROPI, and compensation in order to fulfil their duty under the requirements of The Habitats Regulations.

5. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

5.1. INTRODUCTION

- 5.1.1. This chapter sets out the Examining Authority's (ExA) overall assessment of the planning merits of the proposed development.
- 5.1.2. The ExA is content that the Environmental Statement (ES) and other information submitted by the applicant during the Examination has provided an adequate assessment of the environmental effects of the proposed development and meets the requirements under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations).
- 5.1.3. The ExA is satisfied that the applicant's approach to the assessment of alternatives as described in the ES is comprehensive and complies with the EIA Regulations. The ExA is satisfied that the applicant has assessed reasonable alternatives to the proposed development and taken account of the effects of its options on the environment prior to submitting its application. In that regard, the ExA is also satisfied that the requirements of Section 4.3 of National Policy Statement (NPS) EN-1 are met.
- 5.1.4. The ExA is also satisfied with the applicant's methodology for assessing cumulative effects and the assessment of decommissioning. The ExA has taken full account of all environmental information in its consideration of this application.
- 5.1.5. The Overarching National Policy Statement for Energy (NPS EN-1), National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) and National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) provide the primary basis for the Secretary of State for Energy Security and Net Zero (SoS) to make decisions on development consent applications Nationally Significant Infrastructure Projects (NSIPs) for generating stations. The ExA's conclusions on the case for development consent are therefore reached within the context of the policies contained in these NPSs. In arriving at the conclusions set out in this chapter, the ExA has taken all other relevant law and policy into account.

5.2. SUMMARY OF MAIN PLANNING ISSUES

- 5.2.1. The ExA's findings in relation to the effects of the proposed development and its compliance against the relevant policy and legislation can be found in the relevant sections of chapters 3, 4, 5 and 6 of this Recommendation and are summarised in the table below. In reaching its findings, the ExA has given full consideration to the Local Impact Reports (LIRs) submitted by East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC) [[REP1-052](#)] and Lincolnshire County Council (LCC) [[REP1-053](#)]. The planning matters and potential effects raised are considered in the relevant sections of this Recommendation.
- 5.2.2. A final version of the Report to Inform Appropriate Assessment [[REP6-028](#)] has been provided by the applicant for the proposed development and the ExA has issued its Report on the Implications for European Sites [[PD-022](#)]. The ExA's findings are that adverse effects on integrity cannot be ruled out on the following sites and relevant qualifying features:

- Inner Dowsing Race Bank North Ridge Special Area of Conservation (SAC) – Annex I Sandbanks and reef features - project alone – physical habitat loss/disturbance, suspended sediment/deposition and changes to physical processes
- Inner Dowsing Race Bank North Ridge SAC – Annex I Sandbanks and reef features - in-combination – suspended sediment/deposition and changes to physical processes
- Flamborough and Filey Coast Special Protection Area (SPA) – kittiwake and kittiwake component of the seabird assemblage – in-combination collision risk
- Flamborough and Filey Coast SPA – razorbill, guillemot and their component of the seabird assemblage - in-combination disturbance and displacement
- The Farne Islands SPA – guillemot and guillemot component of the seabird assemblage – in-combination disturbance and displacement

5.2.3. The applicant has submitted a derogation case which includes an assessment of alternative solutions, a case for imperative reasons of overriding public interest (IROPI), and proposed compensation measures. The ExA is satisfied that no feasible alternative solution exists that would represent a lesser adverse effect to the proposed development. Given the evidence available, with regards to the case for IROPI the ExA is of the opinion that IROPI for the proposed development could be established. The findings of the examination are that the compensation package as proposed is feasible and appropriate and is adequately secured in the recommended Development Consent Order (rDCO).

5.2.4. The SoS is the Competent Authority under The Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations) and will make the definitive assessment. The ExA considers that there is sufficient information before the SoS to understand the potential for adverse effects on European sites from the proposed development alone and in-combination. However, given the amount and timing of some of the Habitat Regulations Assessment (HRA) information submitted by both the applicant and NE, the SoS may wish to undertake further consultation to fulfil the duties under Regulation 63(3) of The Habitats Regulations and Regulation 28(4) of The Conservation of Offshore Marine Habitats and Species Regulations 2017.

Table 4 Summary of findings on main planning issues

Issue	Finding	Weighting	Section
Need	Positive	Very Great	3.2
Socio-economic effects	Positive	A little	3.20
Offshore and intertidal ornithology	Negative	Great	3.5
Seascape and visual Effects	Negative	Moderate	3.12
Land use, geology and ground conditions	Negative	Moderate	3.13
Landscape and visual effects	Negative	Moderate	3.14
Oil, gas and other offshore infrastructure	Negative	Moderate	3.7
Good design	Negative	A little	3.3

Benthic ecology, intertidal, subtidal and coastal effects	Negative	A little	3.4
Marine mammals	Negative	A little	3.6
Fish and shellfish ecology	Negative	A little	3.8
Commercial fisheries and fishing	Negative	A little	3.9
Shipping and navigation	Negative	A little	3.10
Civil and military aviation and communication	Negative	A little	3.11
Onshore ecology and ornithology	Negative	A little	3.15
Historic environment and cultural heritage offshore and onshore	Negative	A little	3.16
Onshore water environment	Negative	A little	3.17
Onshore traffic and transport	Negative	A little	3.18
Onshore noise and vibration	Negative	A little	3.19
Climate change	No residual impact	Does not affect the balance	3.21

5.3. THE OVERALL PLANNING BALANCE

- 5.3.1. This section weighs the benefits and disbenefits of the proposed development to reach a recommendation as to whether or not the case is made for granting development consent.

Legal framework and policy background

- 5.3.2. The ExA has been mindful of the legal framework within which the SoS must decide this application and has sought to explore and seek representations on the operation of section 104 (S104) of the Planning Act 2008 (PA2008) and the planning balance. S104(2) and s104(3) of PA2008 require the SoS to have regard to and decide the application in accordance with the relevant NPSs, unless a relevant consideration arising from s104(4) to (8) applies.
- 5.3.3. NPS EN-1 sets out that that given the level and urgency of need for the delivery of major energy infrastructure covered by the energy NPSs, including NPS EN-3 and NPS EN-5, the SoS will start with a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused and subject to the provisions of the PA2008.

- 5.3.4. The ExA considers that the proposed development meets the need as established in the NPSs and satisfies the tests of s104(2) and s104(3) of the PA2008 and accordingly should be determined as such.
- 5.3.5. In accordance with its duties under PA2008, the ExA has had regard to the submitted LIRs, to prescribed matters and to all other important and relevant policies and to all other important and relevant matters identified in this Recommendation. The ExA has also considered whether the determination of this application in accordance with the NPSs would lead to the UK being in breach of any of its international obligations, be in breach of any statutory duty, be unlawful, or be contrary to regulations about how decisions are to be taken. The ExA is satisfied that in all respects, this would not be the case.
- 5.3.6. The ExA is also obliged to consider whether the adverse impacts of the proposed development would outweigh its benefits. NPS EN-1 states that when weighing the adverse impacts against its benefits, the SoS should take into account environmental, social and economic benefits and adverse impacts at national, regional and local levels (para 4.1.6).
- 5.3.7. It goes on to say that where the NPSs require an applicant to mitigate a particular impact as far as possible, but there would still be residual adverse effects after the implementation of such mitigation measures, those residual effects should be weighed against the benefits of the proposed development. For projects which qualify as critical national priority (CNP) infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases. This presumption, however, does not apply to residual impacts which present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero. Furthermore, the same exception applies to this presumption for residual impacts which present an unacceptable risk to, or unacceptable interference offshore to navigation, or onshore to flood and coastal erosion risk.

Matters weighing in favour of the DCO being made

Very great positive weight

- 5.3.8. The proposed development would make a meaningful contribution in meeting the urgent need for energy security at the same time as dramatically reducing greenhouse gas emissions and supporting the transition to a net zero economy. NPS EN-1 states that substantial weight should be given to this need when considering applications for development consent under the PA2008. The ExA therefore considers that the overarching need argument for the proposed development is very strong in terms of meeting the urgent need for low carbon energy and this weighs heavily in favour of making the order and carries very great positive weight in the planning balance.

Great positive weight

- 5.3.9. The ExA found there were no matters that attracted great weight in favour of the Order being made.

Moderate positive weight

- 5.3.10. The ExA found that there were no matters that attracted moderate weight in favour of the Order being made.

A little positive weight

- 5.3.11. The ExA has attributed a little positive weight to the beneficial socio-economic effects as a result of the economic and employment benefits of the proposed development alone.

Matters weighing against the DCO being made

Very great negative weight

- 5.3.12. The ExA found that there were no matters that attracted very great negative weight against the Order being made.

Great negative weight

- 5.3.13. The ExA has afforded great negative weight to the cumulative effects on offshore and intertidal ornithology against the making of the Order for the reasons set out in chapter 3.5. However, the contribution to the cumulative impacts from the project alone would be reasonably modest.

Moderate negative weight

- 5.3.14. The ExA has ascribed moderate negative weight, both alone and cumulatively, in relation to landscape and visual effects due to adverse effects during the construction phase of the export cable corridor and the construction and operational phases of the onshore substation (OnSS). Furthermore, the significant seascape and visual effects during the construction, operation and maintenance and decommissioning phases weigh moderately against the making of the Order.
- 5.3.15. Given the significant adverse effects identified for the permanent loss of best and most versatile agricultural land for both the project alone (36.48 hectares) and cumulatively (2054.11 hectares across Lincolnshire), the ExA considers that overall, land use, geology and ground conditions matters weigh moderately against the making of the Order. This conclusion is also informed by minor adverse effects on agricultural productivity related to soil heating and potential for residual adverse socio-economic effects related to dust impacts for T.H. Clements & Son Ltd. Overall, the ExA concludes that land use, geology and ground conditions matters weigh moderately against the making of the Order for the purposes of the planning balance.
- 5.3.16. Due to the late timing of detailed engagement on wake loss, with the applicant only providing its Wake Loss Technical Note at deadline 4, the ExA does not consider that the applicant has meaningfully adhered to the approach set out in NPS EN-1 paragraph 2.1.8 in terms of the early application of the mitigation hierarchy or NPS EN-3 paragraphs 2.8.48 and 2.8.203 and 2.8.344, 2.8.345 and 3.8.348 that require engagement and co-operation to minimise impacts and ensure successful co-existence. The ExA concludes that oil, gas and other offshore infrastructure matters weigh against the making of the Order due to residual adverse effects and conflict with policy regarding co-existence and mitigation in relation to wake effects. In the absence of likely significant effects, the ExA assigns moderate weight against the making of the Order.

A little negative weight

- 5.3.17. Noting the potential significance of the impact arising from the proposed OnSS structures and the applicant's lack of design development of these structures at

application stage, the ExA affords a little negative weight to the applicant's approach to design.

5.3.18. The ExA has attributed a little negative weight in relation to onshore noise and vibration effects due to residual minor adverse effects that would remain, particularly during the construction phase due to activities such as the use of heavy plant and construction traffic in proximity to noise-sensitive receptors. The ExA has also concluded that there would be minor adverse effects on onshore traffic and transport and the potential for adverse cumulative impacts should other NSIPs proceed concurrently.

5.3.19. Taking into account the residual adverse effects both offshore and onshore, the ExA also attaches a little weight to the following matters against the making of the Order:

- benthic ecology
- marine mammals
- fish and shellfish ecology
- commercial fisheries and fishing
- shipping and navigation
- civil and military aviation
- onshore ecology and ornithology
- historic environment and cultural heritage
- onshore water environment

Other matters

5.3.20. To avoid the risk of double counting, the climate change impacts in terms of reducing greenhouse gas emissions from the proposed development are considered in the Need section and do not on their own weigh for or against the Order being made.

The planning balance

5.3.21. The ExA has attributed very great positive weight to need in the planning balance, in accordance with section 3.2.6 to 3.2.8 of NPS EN-1 and the substantial weight that should be given to the overarching need case for the proposed development. The ExA has also found that a little positive weight should be given to the positive socio-economic impacts that would arise.

5.3.22. The ExA is satisfied that the applicant's assessment has followed the mitigation hierarchy. However, the ExA has identified that the proposed development would result in adverse residual impacts and has attributed great (offshore and intertidal ornithology), moderate (land use, geology and ground conditions, landscape and visual effects, seascape and visual effects and oil, gas and other offshore infrastructure) and a little (design, benthic ecology, marine mammals, fish and shellfish ecology, commercial fisheries and fishing, shipping and navigation, civil and military aviation, onshore ecology, historic environment and cultural heritage, onshore water environment, onshore traffic and transport and onshore noise and vibration) negative weight against the making of the Order as a result.

5.3.23. The ExA considers that these harms, either on their own or collectively, would not be capable of outweighing the very great positive weight from the need for the proposed development as set out in NPS EN-1, EN-3 and where relevant EN-5 2011.

5.4. CONCLUSIONS

- 5.4.1. Despite the adverse effects the ExA has identified, the ExA considers that those effects would generally be within the scope of the relevant policy provisions of NPS EN-1, EN-3 and EN-5. Where non-compliance has been identified (design and oil, gas and other offshore infrastructure), those matters have been attributed negative weight in the planning balance.
- 5.4.2. Regard has been paid to the LIRs, to prescribed matters and all other important and relevant policy, and to other important and relevant matters in this Recommendation, and the ExA does not consider that there are any other matters that are both important and relevant to the decision that would lead to a different conclusion being reached.
- 5.4.3. The ExA finds that adverse visual effects on sensitive receptors are outweighed by the benefits of the project. The ExA is content in relation to paragraph 5.10.14 of NPS EN-1. The ExA does not consider that any adverse landscape impact would be so damaging that it is not offset by the benefits (including need) of the project. The ExA finds that paragraph 5.10.35 of NPS EN-1 is complied with.
- 5.4.4. In terms of HRA the ExA is of the opinion that, for those European sites and qualifying features where an adverse effect on integrity cannot be ruled out, IROPI for the proposed development could be established. The findings of the examination are that the compensation package as proposed is feasible and appropriate and is adequately secured in the recommended DCO (rDCO).
- 5.4.5. On the basis of all of the above considerations, the ExA concludes that the proposed development is acceptable in principle in planning terms and that the case for development consent has been made.
- 5.4.6. The ExA goes on to consider land rights matters in Chapter 6 of this Recommendation and matters relating to the drafting of the Development Consent Order in Chapter 7 of this Recommendation.

CNP considerations

- 5.4.7. The ExA considers that the proposed development is CNP Infrastructure in accordance with paragraph 3.3.62 of NPS EN-1.
- 5.4.8. Paragraph 3.3.63 of NPS EN-1 includes that subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will “*in general outweigh*” any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Page 173 of NPS EN-1 defines the mitigation hierarchy as a “*term to incorporate the avoid, reduce, mitigate, compensate process that applicants need to go through to protect the environment and biodiversity*”.
- 5.4.9. While the ExA is satisfied that the applicant has identified residual impacts, it notes that the mitigation hierarchy has not been fully applied in relation to wake effects. However, the ExA is satisfied that the residual impacts arising from wake effects are not significant. As such, the ExA does not consider it necessary to include a specific mitigation requirement in the rDCO. Nevertheless, a draft requirement has been provided separately, should the SoS consider that further mitigation is appropriate. This approach ensures that the matter is transparently addressed and that the SoS retains the discretion to secure mitigation if deemed necessary.

- 5.4.10. The ExA finds no reason for the proposed development to fall outside the 'general outweighing' set out in paragraph 3.3.63 of NPS EN-1.
- 5.4.11. Paragraph 4.1.7 of NPS EN-1 states that for CNP Infrastructure it is likely that the need case will outweigh the residual effects in all but the most exceptional cases, but that this presumption does not apply to residual impacts which present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats, or unacceptable risk to the achievement of net zero. The ExA is satisfied that there would be unlikely to be any such unacceptable risks or interference and find no reason for the proposed development to be an exceptional case.
- 5.4.12. Paragraph 4.2.16 of NPS EN-1 states that CNP infrastructure is to be treated as if it has met any NPS tests which requires a clear outweighing of harm, exceptionality, or very special circumstances. Paragraph 4.2.17 of NPS EN-1 includes that CNP Infrastructure will meet the test where substantial harm to or loss of significance to heritage assets should be exceptional or wholly exceptional. The ExA has found no substantial harm or loss of significance to heritage assets, therefore, the Secretary of State can be satisfied that this test is met.
- 5.4.13. Paragraph 4.2.22 of NPS EN-1 states that for HRAs, where an applicant has shown there are no deliverable alternative solutions, and that there are IROPI, compensatory measures must be secured by the Secretary of State as the competent authority, to offset the adverse effects to site integrity as part of a derogation. The ExA's findings are that, for those European sites where an AEoI cannot be ruled out (either for the project alone or in-combination), IROPI for the proposed development could be established and the package of compensation measures is feasible, appropriate and has been adequately secured.
- 5.4.14. If the SoS does not agree with the ExA's conclusions on the overall planning balance, the ExA advises that subject to the conclusions set out above, consent may still be granted for the proposed development as CNP Infrastructure.

6. COMPULSORY ACQUISITION AND RELATED MATTERS

6.1. INTRODUCTION

- 6.1.1. This section sets out the relevant legislative requirements relating to compulsory acquisition (CA) and temporary possession (TP), describes the request by the applicant for CA and TP powers, explains the purposes for which land would be required, describes the examination of the CA and TP case and gives the Examining Authority's (ExA's) conclusions and recommendations.

Land Rights Tracker

- 6.1.2. The Rule 6 letter [\[PD-009\]](#) set out the ExA reasons for requesting a land rights tracker (LRT.) This was to provide a comprehensive account of the status of land rights not yet agreed which would mean that the ExA would receive regular updates and final versions of the LRT at the close of the examination. This format would enable the data to be sorted for accurate referencing and review.
- 6.1.3. In so doing, the LRT provides an audit trail for all parties, within which relevant and outstanding matters can be more readily and easily referenced. This allows for the ExA and the Secretary of State (SoS) to have open a useful reference table of the positions of the affected persons (APs) and plots involved and be able to sort them into whichever order was needed, for example, those APs with signed agreements or signed Heads of Terms (HoTs).
- 6.1.4. The LRT submitted at Procedural Deadline 1 [\[PD1-072\]](#) contained the following fields:
- AP reference number.
 - Name of Land Interest.
 - Professional representation (name and company).
 - Examination Library (EL) reference for any relevant representation
 - Status of Objection.
 - Summary of objection.
 - Interest.
 - Land Plans sheet number and Land Plot number.
 - Description of rights sought over plots.
 - Status of negotiation
 - Summary of negotiation status
- 6.1.5. All of the information above is normally held within the Examination Library but spread across a large number of different locations.
- 6.1.6. The LRT submitted at the following deadlines (D): D1 [\[REP1-018\]](#), D2 [\[REP2-045\]](#), D3 [\[REP3-033\]](#), D4 [\[REP4-092\]](#) and the final deadline , D6 [\[REP6-081\]](#). The submission of this tracker and the process of consistently updating it assisted the Examination.

6.2. THE REQUEST FOR CA AND TP POWERS

- 6.2.1. The application version of the draft Development Consent Order (dDCO) [\[APP-303\]](#) and all subsequent versions submitted by the applicant up to the latest dDCO (revision 11) [\[AS-042\]](#) submitted at the end of the Examination include provisions intended to authorise the CA of land and rights over land. The application therefore

included a request for CA as per section(s) 123(2) of the Planning Act 2008 (PA2008). Powers for the TP of land were also sought.

- 6.2.2. The application was accompanied by a Book of Reference (BoR) [\[APP-025\]](#), a Statement of Reasons (SoR) [\[APP-031\]](#), a Funding Statement (FS) [\[APP-026\]](#), Land Plans [\[APP-009\]](#), Offshore Works Plans [\[APP-006\]](#), Onshore Works Plans [\[APP-005\]](#), Offshore Crown Land Plan [\[APP-011\]](#), Special Category Land Plan [\[APP-016\]](#), Access to Works Plan [\[APP-013\]](#), Public Rights of Way Plan [\[APP-014\]](#), Streets Plan [\[APP-015\]](#), and Onshore Crown Land Plan [\[APP-010\]](#). Taken together, these documents describe the land sought by the applicant together with the reasons why the land is required and the basis under which compensation would be funded.
- 6.2.3. The examination and the applicant's due diligence processes led to changes to some of this documentation. By the close of the Examination, the most up-to date versions were as follows:
- SoR (Revision 8) submitted at D6 [\[REP6-016\]](#).
 - FS (Revision 3) submitted at D2 [\[REP2-019\]](#).
 - Land Plans (Revision 8) at D6 [\[REP6-004\]](#) and [\[REP6-005\]](#).
 - Offshore Works Plans (Revision 4) at D4a [\[REP4a-003\]](#).
 - Onshore Works Plans (Revision 4) at D4a [\[REP4a-002\]](#).
 - Special Category Land Plan (Revision 3) at Procedural Deadline (PD) 1 [\[PD1-015\]](#).
 - Access to Works Plan (Revision 3) at PD1 [\[PD1-012\]](#)
 - Public Rights of Way Plan (Revision 5) at D4a [\[REP4a-004\]](#)
 - Streets Plans (Revision 3) at PD1 [\[PD1-014\]](#).
 - Onshore Crown Land Plan (Revision 4) at D6 [\[REP6-006\]](#).
 - Offshore Crown Land Plan (Revision 3) at PD1 [\[PD1-010\]](#).
- 6.2.4. The applicant submitted what it represented as Revision 9 of the BoR at D6 [\[REP6-013\]](#). However, the ExA notes that this document was submitted without parts 1 to 5 included within the document, thus rendering it incomplete, unfit for purpose and non-compliant with part 7 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations).
- 6.2.5. Whilst the omission of a complete and final BoR at D6 represents a hurdle for the ExA in its attempt to conclude its findings in relation CA and TP matters, the ExA has assumed that this omission is a result of an administrative oversight.
- 6.2.6. Nevertheless, the ExA has been left with no alternative but to regard the BoR (Revision 8), submitted by the applicant at D4 [\[REP4-013\]](#) as the most up to date version for the purposes of its Recommendation.
- 6.2.7. All references to application documents in this section from this point on should be read as references to the latest revisions cited above. It should be particularly noted that all Land plan plot references employed in this section accord with the most recently submitted versions [\[REP6-004\]](#) and [\[REP6-005\]](#).
- 6.2.8. In addition to the above documents, the applicant provided a BoR Schedule of Changes and an updated LRT. Both were updated during the examination with the final versions submitted at Deadline 6 [\[REP6-015\]](#) and [\[REP6-081\]](#) respectively. However, for the reasons set out above the ExA has been unable to cross check the information supplied in the last revision of these documents against the corresponding revision to the BoR.

- 6.2.9. Land over which CA and / or TP powers are sought is referred to in this chapter as the Order land.

Proposed Changes

- 6.2.10. The applicant did not submit any requests to change the application during the course of the examination or pre-examination period which sought to either permanently or temporarily acquire additional land or additional rights over land.

6.3. THE PURPOSES FOR WHICH LAND IS REQUIRED

- 6.3.1. The relevant Order land and purposes for which the CA and TP powers are required are set out in the BoR [\[REP6-013\]](#) and SoR [\[REP6-016\]](#) and shown in the Land Plans [\[REP6-004\]](#) and [\[REP6-005\]](#).
- 6.3.2. CA is sought for land that would be required or used permanently for the construction, operation and maintenance of the proposed development. The main powers authorising the CA of land are contained in article 20 (compulsory acquisition of land). This article would allow the undertaker to acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it, subject to the provisions of article 21 (time limit for exercise of authority to acquire land compulsorily), article 22 (compulsory acquisition of rights), and article 28 (temporary use of land for carrying out the authorised project).
- 6.3.3. Article 21 would limit the time allowed for exercising CA (and TP) powers to seven years from the day the Order is made.
- 6.3.4. Article 22 would limit the undertaker's powers of CA to acquire only the rights or impose only the restrictive covenants specified in schedule 7 of the Recommended DCO (rDCO) relating to the Order land also specified in this schedule.
- 6.3.5. Article 28 would allow the undertaker to enter on and take possession of land set out in Schedule 9 to the rDCO, to facilitate the construction of the authorised development. The article would time limit such possession to one year after the date of completion of the relevant part of the authorised development. Article 28 would also prevent the undertaker from acquiring this land compulsorily.
- 6.3.6. Article 45 makes provision to prevent the applicant exercising CA powers until guarantees or alternative forms of security in respect of the liabilities to pay compensation are in place and have been approved.
- 6.3.7. The Land Plans [\[REP6-004\]](#) and [\[REP6-005\]](#) reflect the above and identify the following:
- Land shaded pink – permanent CA of land.
 - Land shaded blue – CA of permanent rights
 - Land shaded yellow – temporary acquisition of rights over land.
- 6.3.8. Other CA powers sought by the applicant include article 23 which provides for the extinguishment of all existing private rights over land subject to CA and suspension of those rights over land subject to TP, as necessary, and article 26 which allows the applicant to acquire compulsorily so much of, or such rights in, the subsoil or the airspace over the land as required. Article 27 would allow the applicant to enter on, appropriate and use land above and below streets in the Order limits without having to acquire any part of the street or easement right in it.

- 6.3.9. Article 29 provides for the applicant to take TP of land within the Order limits required for the purpose of maintaining the authorised development and to construct such temporary works as may be reasonably necessary for that purpose. This general power would be allowed during the period which the authorised development exports electricity to the national electricity transmission network. However, any TP would be time limited for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.
- 6.3.10. Article 30 addresses the CA of statutory undertaker's (SU's) land, including powers to remove or reposition apparatus belonging to SUs.
- 6.3.11. In Crown land, the CA of interests which are for the time being held otherwise than by or on behalf of the Crown is sought (subject to s135 of PA2008). Part 4 of the BoR [\[REP4-013\]](#) identifies the plots within which the Crown has an interest, and these are shown on the Crown Land Plans [\[REP6-006\]](#) and [\[PD1-010\]](#). The BoR identifies that interests in such land are held by The King's Most Excellent Majesty in Right of His Crown (TCE). Article 44 includes a provision for the CA of Crown interests.
- 6.3.12. The route of the proposed development would also require the CA of rights and TP of land which falls into 'special category land' (defined as land forming part of National Trust (NT) land, a common, open space, or fuel or field garden allotment). Part 5 of the BoR and the Special Category Land Plan [\[PD1-015\]](#) identifies the plots that fall within this category. These plots are identified / defined in the BoR as: 'open space' and 'common land' (subject to s132 and s139 of PA2008). Articles 22(8), 28(11) and 29(12) refers to 'special category land'. S131 of PA2008 is not engaged as only CA of rights is proposed.

6.4. LEGISLATIVE REQUIREMENTS

- 6.4.1. The application includes a request for CA and TP powers. The source of those powers is contained in the applicant's preferred dDCO submitted at the end of the Examination [\[AS-042\]](#). All further references to the dDCO in this Chapter relate to this version.
- 6.4.2. The CA powers can only be granted if the conditions set out in s122 and s123 of the PA2008, together with relevant guidance in "Guidance Related to Procedures for the Compulsory Acquisition of Land", DCLG, September 2013 (the former Department for Communities and Local Government) (CA Guidance) are met.
- 6.4.3. Section 122(2) of PA2008 states that the land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. In respect of land required for the development, the CA Guidance sets out that the land to be taken must be no more than is reasonably required for the purposes of the development, is no more than is reasonably necessary and is proportionate. Section 122(2)(c) refers to replacement land which is to be given in exchange of order land under s131 or s132 the CA of land or rights over commons, open spaces etc. This does not apply to this case.
- 6.4.4. Section 122(3) of PA2008 requires that there must be a compelling case in the public interest to acquire the land compulsorily. The CA Guidance states at paragraphs 12 and 13 that the SoS will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the CA will outweigh the private loss that would be suffered by those whose land is to be

acquired. In balancing public interest against private loss, CA must be justified in its own right.

- 6.4.5. Section 123 of PA2008 relates to the land which authorisation of CA can cover. S123(1) permits CA if one of the following conditions in subsections (2) to (4) is met: (2) the application for the order included a request for CA; (3) that all persons with an interest in the land consent to the inclusion of the provision; or (4) the prescribed procedure has been followed in relation to the land. In the case of the current application the first of these conditions is met. The CA Guidance also sets out a number of general considerations to be addressed when CA powers are sought. These are that:
- All reasonable alternatives to CA (including modifications to the development) have been explored.
 - The proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate.
 - The applicant has a clear idea of how the land which it is proposing to acquire will be used.
 - There is a reasonable prospect of the requisite funds becoming available.
 - The purposes for which the CA of land are included in the application are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.
- 6.4.6. Finally, paragraph 25 of the CA Guidance states that applicants should seek to acquire land by negotiation wherever practicable.
- 6.4.7. S127 of PA2008 applies to land acquired by a SU for the purpose of their undertaking where a representation is made about the application for the DCO and not withdrawn and as a result of that representation the SoS is satisfied that the land is used for the purposes of carrying on the SUs' undertaking, or an interest in the land is held for those purposes. S127(5) states that an order granting development consent may include provision authorising the creation of a new right over SUs' land providing that it can be done without serious detriment to the carrying out of the undertaking or any detriment can be made good by the undertaker by the use of other land belonging to or available for acquisition by the SU.
- 6.4.8. S130 of PA2008 relates to NT land. S131 of PA2008 applies to the CA of common land, open space or fuel or field garden allotments and s132 applies to the CA of rights over such land. Such land and NT land is defined as 'special category land' under Regulation 2 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations). In the case of s130 PA2008 states that an order granting development consent would be subject to special parliamentary procedure (SPP) if the SoS is satisfied that one of the relevant subsections apply. In the case of s131 and s132 PA2008 states that an order granting development consent would be subject to SPP unless the SoS is satisfied that one of the relevant subsections applies and that fact is recorded in the Order. Special category land is considered later in this section and is relevant for s132 of PA2008 only.
- 6.4.9. Section 135 of PA2008 provides that, an order granting development consent may include provision authorising the CA of an interest in Crown land only: i) if the interest is for the time being held otherwise than by or on behalf of the Crown; and ii) if the appropriate Crown authority consents to the acquisition.

- 6.4.10. S138 of PA2008 provides for an order to include provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus of SUs only if the SoS is satisfied that such actions are necessary for the purposes of carrying out the development to which the order relates.
- 6.4.11. Further to Part 1 of schedule 5 to PA2008, TP powers are capable of being within the scope of a DCO. PA2008 and the CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as for CA powers because, by definition, such powers do not seek to permanently deprive or amend a person's interests in land. However, they must be justifiable and compatible with human rights tests as discussed below.
- 6.4.12. The Neighbourhood Planning Act 2017 (NPA2017) in general terms provides enhancements to the rights of persons subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice and relevant compensation to those already available to APs subject to CA. However, NPA2017 has not yet commenced and has been disapplied in the final version of the dDCO [\[AS-042\]](#). Previous SoSs have accepted this disapplication.

6.5. EXAMINATION OF THE CA AND TP CASE

- 6.5.1. The examination of the application included consideration of all submitted written material relevant to CA and TP with the processes involved described below.

Written Process

- 6.5.2. APs or persons potentially affected by CA or TP including SUs who made RRs are listed in the LRT [\[REP6-081\]](#).
- 6.5.3. The ExA's written questions, ExQ1 [\[PD-013\]](#) and ExQ2 [\[PD-020\]](#) included questions to clarify and test the applicant's case for CA and TP
- 6.5.4. As well as providing updated BoRs at deadlines 1, 2, 3 and 4, the applicant also provided a Schedule of Changes to the Book of Reference to accompany the BoR at the relevant deadline. The applicant's final Schedule of Changes to the Book of Reference, submitted at D6 [\[REP6-015\]](#) contains information that was not included in the BoR submitted at D6 [\[REP6-013\]](#). For the reasons given earlier in this chapter, the ExA has been unable to reconcile the information provided in this updated schedule of changes with the final BoR submitted at D6.

Hearings

- 6.5.5. An initial compulsory acquisition hearing (CAH) was held on 3 December 2024 (CAH1) [\[EV4-002\]](#), [\[EV4-004\]](#) and [\[EV4-006\]](#) with a further one held towards the latter stages of the examination on 19 March 2025 (CAH2) [\[EV14-002\]](#) and [\[EV14-004\]](#).

Site Inspection

- 6.5.6. An unaccompanied site inspection (USI) took place on 22 [\[EV1-001\]](#) and 23 May 2024 [\[EV1-002\]](#). This enabled the ExA to view much of the land subject to CA and TP proposals from publicly accessible land. The ExA was also able to gain an appreciation of the general extent of land being sought to be acquired permanently and / or possessed temporarily during the USI.

- 6.5.7. A further opportunity for the ExA to view more of the land subject to CA and TP proposals was provided by the accompanied site inspection held on 11 February 2025 [\[EV9-001\]](#).

General Consideration

- 6.5.8. The applicant's general case for CA and TP is set out in the SoR [\[REP6-016\]](#). The applicant considers that:
- The conditions in s122 of PA2008 are met and the tests in the CA Guidance are satisfied.
 - All of the land subject to CA and TP powers is necessary to construct, operate, maintain and mitigate the proposed development and is necessary to achieve its objectives.
 - The extent of the land sought for CA and TP is reasonable and proportionate and is no more than is reasonably required for the purposes of the proposed development.
 - The applicant has a clear idea of how it intends to use the land which would be subject to CA and TP.
 - All reasonable alternatives to CA (including modifications to the proposed development) have been explored.
 - The applicant has engaged with all APs with a view to acquiring land interests by agreement and is continuing this process.
 - There is the necessary funding available.
 - The exercise of the CA and TP powers that are sought is necessary and proportionate to the extent that interference with private land and rights is required.
 - In the absence of CA and TP powers, it would not be possible to proceed with the proposed development, and the public benefits of the proposed development would not be realised.
 - There is a compelling case in the public interest to include the CA and TP powers sought by the applicant in the Recommended DCO (rDCO).
 - The interference with human rights is both proportionate and justified.
- 6.5.9. ExQ1 [\[PD-013\]](#) included questions relevant to the applicant's case for CA and TP, including: compliance with the BoR and the DCLG guidance 'Planning Act 2008: procedures for the compulsory acquisition of land' (September 2013) (DCLG guidance); accuracy of the BoR, SoR, LRT and Land plans; the case for CA; professional fees; the applicant's approach to the investigation of suggestions/ requests made by APs to reduce or mitigate the impact of the proposed development on their interests; progress with land rights negotiations and justification of the need for the acquisition / possession of specific plots of land.
- 6.5.10. At CAH1 [\[EV4-002\]](#), [\[EV4-004\]](#) and [\[EV4-006\]](#) the ExA:
- Explored further the applicant's case for CA and TP, including funding.
 - Received an update from the applicant on crown land and interests, special category land and SUs.
 - Heard and orally examined objections from APs.
 - Asked the applicant to justify the need for and/ or size of individual plots such as the need for rights over the whole of the area identified as work no 17 and referred to by the applicant as the connection area. This area would encompass a number of plots, which are set out in the SoR [\[REP6-016\]](#) appendix 2, table 1.
- 6.5.11. The applicant's consideration of alternatives is provided in ES Chapter 4, Site Selection and Consideration of Alternatives [\[REP5-013\]](#) and provides the scheme

evolution, including the options considered, and the reasons for their rejection in favour of the preferred option. The Consultation Report [\[AS1-034\]](#), the appendices which accompany the Consultation Report and the Planning Statement [\[APP-297\]](#) also provide information on alternatives. Section 3.2 of this Recommendation considers site selection and alternatives in greater detail and concludes the applicant has considered all reasonable alternatives to each element of the proposed development in the Environmental Statement, and that the scheme represents the most appropriate location having regard to environmental and technical constraints of the proposed and other sites considered. None of the alternative options would obviate the need for CA and TP powers.

- 6.5.12. The SoR [\[REP6-016\]](#) provides the justification for the CA or TP for each plot identified on the Land Plans [\[REP6-004\]](#) and [\[REP6-005\]](#) and the Works Plans Onshore [\[PD1-004\]](#), alongside the Offshore Works Plans [\[PD1-005\]](#) demonstrate that the applicant has a clear idea of how it intends to use the land which would be subject to CA and TP.
- 6.5.13. In terms of demonstrating a compelling case in the public interest for the acquisition of land and rights, the applicant highlights in the SoR [\[REP6-016\]](#) and Planning Statement [\[APP-297\]](#) that the proposed development would make a significant contribution to meeting national need for energy infrastructure, including of the renewable type proposed, in accordance with policy set out in NPS EN-1 and that it would contribute to the delivery of the 30 gigawatts (GW) of renewable energy envisaged in NPS EN-1 and the ambition to deliver 50GW of offshore wind by 2030 as set out in the UK Government's April 2022 British Energy Security Strategy (BESS).
- 6.5.14. With a commitment to meet these objectives, the applicant believes that the proposed development is linked directly to both national and international policy and that the proposed development would make a substantial contribution to the achievement of the UK's national renewable energy targets, and to the UK's contribution to global efforts to reduce the effects of climate change.
- 6.5.15. The SoR [\[REP6-016\]](#) and Planning Statement [\[APP-297\]](#) also set out an overview of the ways in which the proposed development would provide opportunities for economic growth at national and local levels, both during construction and throughout its operational life. The applicant asserts that the proposed development would represent a significant investment in the offshore wind sector, by contributing to a growing, skilled workforce and by strengthening existing manufacturing industries.
- 6.5.16. Notwithstanding the applicant's assertion of the need for and benefits of the proposed development, there remained issues which the ExA believed warranted further consideration during the course of the examination.
- Compliance with 122(2) and DCLG Guidance.
 - The acquisition of land interests and/ or TP powers by agreement.

Compliance with 122(2) and DCLG Guidance and the Order Limits

- 6.5.17. Section 122(2) of PA2008 states that the land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. The CA Guidance states that the land to be taken must be no more than is reasonably required for the purposes of the development, is no more than is reasonably necessary and is proportionate.

- 6.5.18. The SoR [\[REP6-016\]](#) notes that for work no 17 the applicant seeks to acquire permanent rights and to impose a restrictive covenant over 161 hectares (ha) of land allowing a 400 kilovolt (kV) connection between the applicant's proposed onshore substation (OnSS) and a new National Grid (NGET) substation (NGSS) which is intended to form part of a separate application but which would be located at an undetermined location within the connection area.
- 6.5.19. The applicant describes [\[REP6-016\]](#) the land within the connection area as Grade 1 agricultural land and notes that the NGSS will be sited within or near to this location. The applicant further clarifies that once the site is confirmed by NGET, the 400 kV cable corridor will extend across the Connection Area to the NGSS.
- 6.5.20. The applicant's Project Description [\[REP5-009\]](#) clarifies that the NGSS would be built, owned, and operated by NGET and that whilst it is anticipated that it would be located within, or near to, the Connection Area, details of this development are not yet known. As a result, the applicant notes that it has made *"typical assumptions regarding the location and parameters of this infrastructure in order for a cumulative assessment to be undertaken"*.
- 6.5.21. At the outset of the examination the ExA was not satisfied that the information provided by the applicant set out a compelling case in the public interest, as required by section 122(3) of PA2008, for the acquisition of permanent rights over the full extent of land identified as being required for work no.17. The ExA was also not satisfied that the reasons given by the applicant for the acquisition of permanent rights over the full extent of land met the conditions of section 122(2) of PA2008.
- 6.5.22. The ExA noted these concerns in ExQ1 [\[PD-013\]](#), asking the applicant to demonstrate further evidence that would show that it would genuinely require the flexibility to route underground 400kV cables anywhere within the entirety of the Connection Area.
- 6.5.23. The applicant's response [\[REP2-051\]](#) Q1 CA 1.29 included a series of indicative illustrations (at appendix 1.6 Q1 CA 1.29) of potential NGSS locations within the Connection Area and associated indicative cable routes for each NGSS location required by the applicant to connect into the notional substation. In its response, the applicant was clear that the NGSS could, nevertheless, be located anywhere within the Connection Area. In addition, the applicant provided a plan showing its various scenarios merged into a single plan to outline why the entire connection zone could genuinely and reasonably be required until the location of the National Grid substation and connection points for the project are finalised.
- 6.5.24. The applicant's response continued to clarify that further certainty as to the NGSS final location could not be provided because NGET was still undertaking early non-statutory consultation on its proposals for a new substation at Weston Marsh. It followed, therefore, that it was also not yet known where the connection point for the proposed development would be in relation to the NGSS.
- 6.5.25. The applicant continued to stress its position that the extent of land sought was necessary and sought over the whole area because of the uncertainty referred to above regarding the precise location, layout, and orientation of the National Grid substation.
- 6.5.26. The applicant's response [\[REP2-051\]](#) Q1 CA 1.29 also contained a list of consented DCOs which had adopted a similar approach to the acquisition of land, or rights

over land, further to the ExA's request to provide this information. The applicant's list included:

- Sheringham Shoal and Dudgeon Extension Projects
- Hornsea Three
- Awel Y Môr

For each of the examples given by the applicant, a description of the approaches taken was also provided by the applicant.

- 6.5.27. The ExA sought further information from the applicant on this matter at CAH1 [\[EV4-002\]](#), [\[EV4-004\]](#) and [\[EV4-006\]](#). In particular the ExA was interested in hearing further justification from the applicant in relation to the extent of land related to work no 17 which the applicant was seeking permanent rights over and further explanation from the applicant about the legislative basis which it believed supported its approach.
- 6.5.28. The ExA asked the applicant to expand on its reasoning that the proposed acquisition of permanent rights over the extent of land related to work no 17 complied with s122 of The Planning Act 2008 (PA2008). In response, the applicant [\[REP3-039\]](#) noted that the Connection Area would be crossed by 400kV cables running between its OnSS and the NGSS. The applicant pointed out that the 400kV cables and development related to them form part of the proposed development and that therefore the land which comprises the Connection Area is land which is required for the proposed development within the meaning of s122(2)(a) of PA2008.
- 6.5.29. The applicant's position at CAH1 [\[EV4-002\]](#), [\[EV4-004\]](#) and [\[EV4-006\]](#) was that once the precise location of the NGSS is known, then it would be possible to identify a more precise route for the cable, but at present it was not possible to define a more precise route and hence rights over the whole connection area would be required.
- 6.5.30. In response to additional questioning from the ExA at CAH1 [\[EV4-002\]](#), [\[EV4-004\]](#) and [\[EV4-006\]](#), the applicant clarified that in its view it was not reliant on the definition of "facilitation", as set out in s122(2)(b) of PA2008 and as it would relate to the NGSS within the Connection Area. The applicant stressed that the NGSS did not form part of its application and that the Connection Area would be required purely to connect to the NGSS and that, in the absence of precise information related to the location of the NGSS, it was assumed at the application stage that the cable route could cover any part of the Connection Area.
- 6.5.31. The ExA continued, with reference to appendix 1.6 Q1 CA 1.29 [\[REP2-051\]](#) to question the extent of land which the applicant was seeking to acquire permanent rights over by noting that the whole of the Connection Area could never be required for the applicant's cable route, since a significant proportion of the land in question would ultimately be taken up by the NGSS.
- 6.5.32. The applicant commented that it recognised the extent of the Connection Area but that given the stage of the optioneering for the NGSS, it would be impossible to define the Connection Area more precisely at the current stage in the process. The applicant reiterated that power to acquire rights over the connection area as a whole should be included in the dDCO [\[AS-042\]](#) if the applicant is to be able to deliver the project.
- 6.5.33. In addition, the applicant noted that it would not be taking all of the land in the Connection Area. The applicant's view is that the powers which it seeks to include in

the dDCO [\[AS-042\]](#) to acquire rights over the full extent of the connection area, have been drafted so that the applicant has the necessary flexibility to deliver the project in light of the current uncertainty over the precise location of the NGSS. However, once the precise location of the NGSS is known, the applicant believes that it should be possible to exercise those powers to acquire rights only over a more limited area, if rights have not already been acquired through voluntary agreement. The applicant pointed out that control over the exercising of these CA powers is provided by articles 20 and 22 of the dDCO [\[AS-042\]](#) which would limit the exercising of powers to acquire both land and rights in land to those areas which are required for the authorised development, or which are required to facilitate or are incidental to it.

- 6.5.34. The ExA sought further clarity from the applicant on this matter at CAH2 [\[EV14-002\]](#) and [\[EV14-004\]](#), noting that its underlying concern remained with the extent of land over which permanent rights were sought. The ExA noted that following CAH1 [\[EV4-002\]](#), [\[EV4-004\]](#) and [\[EV4-006\]](#), it had remained unsatisfied that the applicant had sufficiently demonstrated that the full extent of land affected as part of work no 17 would be required for the development to which development consent would relate.
- 6.5.35. The applicant responded at CAH2 [\[REP6-112\]](#) to reiterate that because of the need for flexibility as to where development needs to take place at the current stage of its application, all of the land being sought would be required for the development to which the development consent would relate. The applicant stressed that, in its view, this was the same in principle as any other DCO where, following a detailed design stage, not all land over which CA would be authorised would ultimately be required for development.
- 6.5.36. Also at CAH2 [\[REP6-112\]](#), the applicant noted that an important aspect of its overall justification of and its interpretation of the requirement for flexibility at this stage was in order to ensure the efficient and effective delivery of critical national priority (CNP) infrastructure, being infrastructure which is at the highest level of public importance. The applicant holds that it is this matter that is to be weighed in the balance against the temporary interference with interests in land held by relevant APs and that if the SoS is satisfied that the need and extent of flexibility have been justified then the applicant submitted that there would be a compelling case in the public interest in favour of the acquisition of permanent rights over the land associated with work no 17.
- 6.5.37. One of the APs affected by work no 17, George Hay and Sons made a submission at CAH2 [\[EV14-002\]](#) and [\[EV14-004\]](#) confirming that it had entered into an agreement with the applicant for areas of land where the cable corridor route was more clearly defined, but that it was not comfortable with heads of terms proposed by the applicant which covered a less well defined area of approximately 200 acres. George Hay and Sons also noted that the proposed development was one of between 6 and 8 possible schemes that could cross its landholding and that this had the potential to cause significant impact on its farming business if it did not have clarity over how such developments would fit together before it could proceed with further voluntary agreements with the applicant.
- 6.5.38. The applicant provided further detail to support its oral submissions at CAH2 in response to post-hearing action point CAH2AP4 raised by the ExA [\[REP6-114\]](#).
- 6.5.39. Within its response to post hearing action points [\[REP6-114\]](#), the applicant noted that as part of the upgrade work required to the grid network, including the provision

of new substations required to connect upcoming offshore wind projects, that are being undertaken by National Grid, there would necessarily be some uncertainty over the precise location of infrastructure which is yet to be authorised and a corresponding need for flexibility when granting DCOs for projects that would connect to this infrastructure.

- 6.5.40. Within the same response, the applicant also stressed the introduction of policy defining CNP for nationally significant low carbon infrastructure in paragraph 3.2.6 of NPS-EN1 and that the substantial weight which should be given to the need for this technology when assessing applications is the starting point for all assessments of energy infrastructure applications.
- 6.5.41. The applicant further highlighted in response to CAH2AP4 [\[REP6-114\]](#) that there is a presumption in national policy that the CNP outweighs non-Habitats-Regulations-Assessment or non-Marine-Conservation-Zone residual impacts after the mitigation hierarchy has been applied, and that the SoS must treat such infrastructure as if it has met any tests which are set out within the NPSs, or any other planning policy, which requires a clear outweighing of harm, exceptionality or very special circumstances.
- 6.5.42. The applicant also stressed that when considering the government's plans for offshore wind and the plans for the National Grid to ensure that generating capacity can be connected flexibility is required to enable both plans to be progressed in parallel. The applicant made the further point that considering the challenging and ambitious target to produce both the generating capacity and the necessary grid capacity, developers cannot wait until all of the grid connections are in place before promoting Orders that would allow that generating capacity to be delivered.
- 6.5.43. The applicant's response to CAH2AP4 [\[REP6-114\]](#) also noted recognition within NPS EN-3 of the need for offshore wind projects to provide for flexibility to account for uncertainty in the location of onshore substations in paragraph 2.8.74 which notes that the exact locations of offshore and / or onshore substations may be unknown to an applicant at the application stage due to the complex nature of offshore wind farm development.

The acquisition of land interests and / or TP powers by agreement.

- 6.5.44. S122(3) of the PA2008 requires there to be a compelling case in the public interest for the CA of land.
- 6.5.45. Paragraph 25 of the CA Guidance states:
- “Applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail. Where proposals would entail the compulsory acquisition of many separate plots of land (such as for long, linear schemes) it may not always be practicable to acquire by agreement each plot of land. Where this is the case, it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset.”*
- 6.5.46. Paragraph 45 of the CA Guidance makes it clear that further guidance is to be found in the Crichel Down Rules (now contained in Guidance on Compulsory Purchase Process and The Crichel Down Rules, DLUHC, July 2019). This states in Part 2 that:

“The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to / arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.

Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:

- *plan a compulsory purchase timetable as a contingency measure; and*
- *initiate formal procedures”.*

- 6.5.47. At the start of the examination, the ExA noted that relevant representations (RRs) were received from a number of APs. However, the ExA notes that there were no significant issues raised by APs relating to the applicant’s level of engagement in order to secure land rights that the applicant deemed necessary for the proposed development by negotiation in accordance with CA guidance and the Crichel Down Rules (DLUHC, July 2019).
- 6.5.48. The applicant’s first LRT [\[PD1-072\]](#) identified the status of negotiations with APs prior to the start of the examination. The applicant provided updated versions of its LRT at each examination deadline except for D4a and D5. In addition, the ExA sought updates from the applicant on the status of negotiations with APs at CAH1 [\[EV4-002\]](#), [\[EV4-004\]](#) and [\[EV4-006\]](#) and CAH2 [\[EV14-002\]](#) and [\[EV14-004\]](#), with the ExA noting at CAH2 that the applicant’s penultimate LRT, submitted at D4 [\[REP4-092\]](#) identified 86 APs with whom both negotiations and objections remained categorised as open by the applicant and raised an action point for the applicant to respond with an account detailing the status of negotiations with each of the outstanding APs at D6
- 6.5.49. The applicant’s response to CAH2AP1 [\[REP6-114\]](#) gives an account of the steps the applicant had taken in order to consult and negotiate with APs. In addition, the applicant explained that the status shown in the tracker was not indicative of negotiations which the applicant termed “truly open”. The applicant explained that this was because its tracker would only categorise agreements as closed when an option agreement has reached completion and was not formatted to indicate where HoTs have been agreed or an option agreement has been signed.
- 6.5.50. The applicant’s response to CAH2AP1 [\[REP6-114\]](#) also provided an update on the status of negotiations post CAH2 [\[EV14-002\]](#) and [\[EV14-004\]](#), noting that the applicant had successfully agreed in principle HoTs with 97% of landowners for landfall and the onshore ECC (representing 95% of the length of the onshore ECC). The applicant additionally noted that it had successfully agreed option agreements with 79% of landowners for landfall and the onshore export cable corridor (ECC) (representing 76% of the length of the onshore ECC). Further to this, the applicant confirmed that it was proceeding to exchange option agreements where possible with 64 option agreements being exchanged to date and that positive engagement and constructive negotiations were ongoing with remaining APs.
- 6.5.51. In the same response the applicant confirmed that there were 9 agreements outstanding with 8 APs where the applicant could not confirm that agreement would be likely to be reached prior to a decision on its application. The status of these,

alongside a commentary from the applicant giving its assumptions on future progress of negotiations was provided in table format within the applicant's response to CAH2AP1 [\[REP6-114\]](#). Of the 8 outstanding APs with whom agreement had not been reached, there were 2 APs with whom negotiations were no longer ongoing. These were:

- Louise Jane Brooks, Plots 13-021 and 14-002.
- St Johns College Cambridge, Plots 50-001, 50-002, 51-011 and 51-012.

6.5.52. The applicant issued a final LRT at D6 [\[REP6-081\]](#) shortly before the close of the examination. The information contained within the final LRT accurately reflected the applicant's representation of the progress of agreement and negotiations with APs provided at CAH2 [\[EV14-002\]](#) and [\[EV14-004\]](#) in response to CAH2AP1 [\[REP6-114\]](#).

6.5.53. Taken overall, the ExA's view is that the applicant's provision of an LRT and its commitment to regularly updating this document over the course of the examination has assisted the ExA in understanding the extent and consistency of engagement between the applicant and APs.

Consideration of Individual Objections and Issues

6.5.54. Many APs raised similar issues in their submissions. The perceived excessive width of the proposed Order limits and the lack of effort on the part of the applicant to obtain the land rights necessary for the proposed development by negotiation, both discussed above, were reoccurring themes in written and oral submissions. In addition, the following concerns were frequently raised:

- the provision of incorrect documentation
- the preservation of terms under the HoTs
- the negotiation of occupier's consent
- cable burial depth
- the potential for interference with land drainage
- the extent of liability for damages to cables
- the extent of land encumbered by proposed option agreements

6.5.55. There were numerous other objections also received from APs listed in the BoR. However, these other objections refer to concerns not directly related to CA or TP and are not reported below.

6.5.56. Appendix F to this Recommendation sets out the ExA's consideration of objections and issues raised by APs in respect of CA and / or TP and the applicant's responses to those. It should be read in conjunction with the applicant's final version of the LRT submitted into the examination at D6 [\[REP6-081\]](#), which lists: the status of the objection; the plots for each land interest; identifies those subject to CA of land, CA of rights and TP or TP of land only (as shown on the Land Plans [\[REP6-004\]](#) and [\[REP6-005\]](#)); the proposed works on those plots and the status of negotiations at the end of the Examination.

6.5.57. The ExA has considered all the objections received and many of the issues raised by IPs have also been considered in earlier parts of this Recommendation when considering the planning issues arising in relation to the proposed development. The objections are summarised in appendix F in the context of the application for the grant of CA and TP powers.

- 6.5.58. The ExA examined CA objections against the tests set out in s122 and s123 of the PA2008, having regard to the CA Guidance. The ExA also considered objections to the application for powers of TP under articles 28 and 29 of the draft DCO and by those who may be able to make a claim under s10 of the Compulsory Purchase Act 1965 or Part I of the Land Compensation Act 1973. Similarly, the ExA had regard to the Human Rights Act 1998 and the Equalities Act 2010 (EA2010) in considering the application for the grant of CA and TP powers.

6.6. STATUTORY UNDERTAKERS LAND, RIGHTS AND APPARATUS

- 6.6.1. S127 of PA2008 applies to land acquired by SUs for the purposes of their undertaking, and places restrictions on the CA, or CA of a new right, of such land where a representation is made in relation to a DCO application and is not withdrawn by the close of the Examination of that application. The final, rDCO (article 30) includes provision to authorise the CA of land and rights held by SUs for the purposes of their undertaking.
- 6.6.2. If s127 applies, the CA and CA of rights of SU's land can only be authorised if the SoS is satisfied:
- The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.
 - The right over land can be purchased without serious detriment to the carrying on of the undertaking, or any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.
- 6.6.3. S138 of PA2008 applies where an Order authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a relevant right or there is on, under or over the land relevant apparatus.
- 6.6.4. S138(4) provides that an Order may include provision for the extinguishment of the relevant right or the removal of relevant apparatus only if the SoS is satisfied that the extinguishment, or removal, is necessary for the purpose of carrying out the development to which the Order relates. The rDCO (article 30) includes such a provision.
- 6.6.5. At the close of the examination the applicant's position in relation to these matters is contained in the LRT [\[REP6-081\]](#).
- 6.6.6. This section sets out the ExA consideration of objections and issues raised by SUs in respect of CA and / or TP and the applicant's responses to those. It should be read in conjunction with part 7 and schedule 18 of the rDCO and the applicant's final version of the LRT submitted into the Examination at D6 [\[REP6-081\]](#).
- 6.6.7. The ExA's conclusions with regard to PPs and its rDCO are set out in chapter 7 of this Recommendation.

National Grid Electricity Transmission Plc (NGET) (AP ref no 22381)

- 6.6.8. NGET is a SU with assets within and within proximity to the Order land that form part of the national electricity transmission network. NGET's main concern related to

its existing and proposed infrastructure and land interests which would be located within and in close proximity to the proposed Order limits. NGET noted [\[RR-048\]](#) that the proposed development intends to construct 400kV cables from its onshore converter station, connecting to NGET's proposed Weston Marsh substation, which forms part of its planned Grimsby to Walpole (G2W) Project.

6.6.9. The applicant and NGET were involved in negotiations throughout the examination. The Statement of Common Ground (SoCG) [\[REP6-096\]](#) between the applicant and NGET sets out the main issues and the position at the end of the Examination:

- The protection of NGET's existing plant and apparatus
- Weston Marsh substation

6.6.10. With regard to the protection of NGET's plant and apparatus, as well as associated safety concerns, NGET was satisfied that the applicant had accurately identified existing NGET apparatus within the Order limits.

6.6.11. In addition, it was agreed [\[REP6-096\]](#) that NGET had provided the applicant with safety information in its section 42 consultation response and that the applicant had incorporated relevant elements of guidance into its outline Code of Construction Practice.

6.6.12. NGET also confirmed that PPs had been agreed which include a framework for co-ordination between the applicant and NGET to minimise conflict between the proposed development and any future development brought forward by NGET that would sit within the order limits. A restriction on acquisition of land without consent from NGET was also agreed.

6.6.13. NGET confirmed [\[REP6-096\]](#) that it would be responsible for consenting and building its own infrastructure and that the proposed development's 400 kV cables would connect to a new NGET substation, if consented.

6.6.14. Considering the representations from NGET and the fact that it is identified as a landowner, the ExA considers that s127 is engaged and met. The ExA is satisfied that the powers sought are necessary for the proposed development and the test in s138(4) of PA2008 has been met and there would be no serious detriment to NGET's undertaking.

National Gas Transmission PLC (NGT) (AP ref no 86149)

6.6.15. NGT are responsible for the national gas network with assets and interests in land within the Order limits. Its main concerns related to adequate protection of its assets and the suitable wording of PPs in this regard [\[RR-020\]](#) and [\[REP6-131\]](#).

6.6.16. Negotiations continued throughout the examination between NGT and the applicant. The LRT [\[REP6-081\]](#) sets out that PPs have been agreed and confirms that the final dDCO [\[AS-042\]](#) reflects the agreed position.

6.6.17. NGT submitted a closing statement at D6 [\[REP6-131\]](#) confirming that it had reached agreement on the terms of PPs for inclusion in the order and other commercial terms and that it withdrew its representations related to the application.

6.6.18. The ExA is satisfied that s127 of PA2008 is no longer engaged, following the withdrawal of representations by NGT. The ExA is also satisfied that the powers sought are necessary for the proposed development and the test in s138(4) of

PA2008 has been met and there would be no serious detriment to NGT's undertaking.

Cadent Gas Limited (Cadent) (AP ref no 125560)

- 6.6.19. Cadent is a licensed gas transporter under the Gas Act 1986, with a statutory responsibility to operate and maintain the gas distribution networks in North London, Central, East Anglian and North West England. Its main concerns related to adequate protection of its assets and the suitable wording of PPs in this regard [\[RR-013\]](#), [\[REP2-084\]](#) and [\[REP6-140\]](#).
- 6.6.20. Negotiations continued throughout the Examination between Cadent and the applicant. The LRT [\[REP6-081\]](#) sets out that PPs have been agreed and confirms that the final dDCO [\[AS-042\]](#) reflects the agreed position.
- 6.6.21. Cadent submitted a closing statement at D6 [\[REP6-140\]](#) confirming that it had reached agreement on the terms of PPs for inclusion in the order and other commercial terms and that it withdrew its objection to the making of the Order.
- 6.6.22. The ExA is satisfied that s127 of PA2008 is no longer engaged, following the withdrawal of representations by Cadent. The ExA is also satisfied that the powers sought are necessary for the proposed development and the test in s138(4) of PA2008 has been met and there would be no serious detriment to NGT's undertaking.

The Environment Agency (EA) (AP ref no 183830)

- 6.6.23. The Environment Agency identified itself as a SU within the meaning at s127(8)(a) of PA2008 [\[RR-018\]](#). Section 165 of the Water Resources Act 1991 sets out its powers to carry out flood defence and drainage works (to the extent that it has a power and not a duty).
- 6.6.24. The EA's main concerns related to adequate protection of its existing assets, resources and flood protection responsibilities.
- 6.6.25. The applicant and the EA were involved in negotiations throughout the examination. The SoCG [\[REP6-085\]](#) between the applicant and the EA sets out the agreed position at the end of the Examination. Of particular interest to the EA were the following issues:
- Maintaining access along Roman Bank to enable the EA to carry out beach nourishments and associated works and to be able to access its compound at all times.
 - Access to Anderby beach in emergency cases only and with prior approval from the EA.
- 6.6.26. Negotiations continued throughout the examination between the EA and the applicant. The LRT [\[REP6-081\]](#) sets out that PPs have been agreed and confirms that the final dDCO [\[AS-042\]](#) reflects the agreed position. Further to this, the EA's closing statement [\[REP6-136\]](#) notes that it withdrew its holding objection detailed in paragraph 4.5 of its RR [\[RR-018\]](#).
- 6.6.27. The ExA is satisfied that s127 of PA2008 is no longer engaged, following the withdrawal of the holding objection submitted by the EA. The ExA is also satisfied that the powers sought are necessary for the proposed development and the test in

s138(4) of PA2008 has been met and there would be no serious detriment to NGT's undertaking.

Anglian Water Services Limited (AW) (AP ref no 183933)

- 6.6.28. AW is the statutory water and wastewater services provider for the area within the Order limits of the proposed development. AW noted [\[RR-008\]](#) that it owns and operates the water supply and sewerage infrastructure within the project area.
- 6.6.29. AW's primary concern was that in locations where the project intersects with AW assets, their protection and continuity of water and water recycling services to customers would be required, but noted [\[RR-008\]](#) that as part of its pre-submission discussions with the applicant, a set of PPs had been agreed.
- 6.6.30. AW submitted a signed and agreed SoCG [\[REP5-132\]](#), as well as a closing statement at D5 [\[REP5-155\]](#) confirming that it had reached agreement on the terms of PPs for inclusion in the order and on that basis, it withdrew all representations regarding the application.
- 6.6.31. The ExA is satisfied that s127 of PA2008 is no longer engaged, following the withdrawal of representations by AW. The ExA is also satisfied that the powers sought are necessary for the proposed development and the test in s138(4) of PA2008 has been met and there would be no serious detriment to NGT's undertaking.

Network Rail Infrastructure Limited (NR) (AP ref no 195538)

- 6.6.32. NR is a statutory undertaker and owns, operates and maintains the majority of the rail infrastructure of Great Britain, including the Grantham to Skegness line and verges, which lies to the west of the Lincolnshire coast (the Railway). NR noted [\[RR-049\]](#) and [\[REP1-045\]](#) that the applicant was seeking to acquire rights over a number of plots identified in the BoR [\[REP4-013\]](#) as being under the ownership of NR.
- 6.6.33. NR noted that it objected [\[REP1-045\]](#) to the use of CA powers over its plots to deliver the proposed development on the grounds that the proposed works would interfere with the safe and efficient operation of the railway and give rise to impacts on NR's railway and associated infrastructure. Of particular concern was the risk of structural impacts on the railway as a result of digging of trenches, directional drilling, auger boring, thrust boring and micro tunnelling.
- 6.6.34. Negotiations continued throughout the examination between NR and the applicant. The LRT [\[REP6-081\]](#) sets out that PPs have been agreed and confirms that the final dDCO [\[AS-042\]](#) reflects the agreed position.
- 6.6.35. Considering the representations from NR and the fact that it is identified as a landowner, the ExA considers that s127 is engaged and met. The ExA is satisfied that the powers sought are necessary for the proposed development and the test in s138(4) of PA2008 has been met and there would be no serious detriment to NR's undertaking.

Other Statutory Undertakers

- 6.6.36. The LRT [\[REP6-081\]](#) includes a number of other SUs with interests in the Order land, including:

- South Holland Internal Drainage Board (IDB)
- The Black Sluice IDB
- Witham Fourth District IDB
- The Welland and Deepings IDB
- Lindsey Marsh Drainage Board
- Centrica
- Spalding Energy Company Ltd
- National Grid Electricity Distribution (East Midlands) PLC
- Openreach
- Intergen (UK) Ltd
- Triton Knoll

- 6.6.37. With regard to the drainage boards, the applicant has noted the RRs submitted by each individual drainage board [\[PD1-071\]](#) and indicated that it had engaged with the relevant drainage authorities to discuss and develop PPs for the benefit of those authorities.
- 6.6.38. Negotiations continued throughout the Examination between the drainage boards and the applicant. The LRT [\[REP6-081\]](#) sets out that PPs have been agreed and confirms that the final dDCO [\[AS-042\]](#) reflects the agreed position.
- 6.6.39. Considering the representations from the drainage boards and the fact that each is identified as a landowner, the ExA considers that s127 is engaged and met.
- 6.6.40. The LRT [\[REP6-081\]](#) sets out that the applicant received no responses from the remaining parties mentioned above, but that the final dDCO [\[AS-042\]](#) contains standard PPs relevant to each party which they would be able to rely on.
- 6.6.41. In respect of the plots in which these remaining SUs hold an interest, or hold interests, the ExA is satisfied that the powers sought by the applicant are necessary for the proposed development and consistent with s138 of PA2008 and that there would be no serious detriments to any of the SU's undertakings.

Special Category Land

- 6.6.42. Special category land is defined in Regulation 2 of the Infrastructure Planning (applications: Prescribed Forms and Procedure) Regulations 2009 as land identified as forming part of a common, open space, NT land or fuel or field garden allotment.
- 6.6.43. Part 5 of the BoR identifies plots of land which constitute "special category land" for the purposes of sections 130 and 132 of PA2008 that will be affected by the proposed development and the rights contained in the Order. In this case common land and open space which are identified as such on the Special Category Land Plans [\[AS-027\]](#).
- 6.6.44. This section sets out the ExA's consideration issues raised in respect to the CA and/or TP of special category land. It should be read in conjunction with the applicant's final version of the LRT submitted into the examination at D6 [\[REP6-081\]](#). The SoR [\[REP6-016\]](#) confirms that no areas comprising of National Trust land were identified by the applicant as forming part of the Order land.
- 6.6.45. The applicant is seeking the CA of rights over land identified as common land. This engages s132 of PA2008. No common land would be subject to CA of land and as such, s131 of PA2008 is not relevant.

- 6.6.46. S132(2) of PA2008 states that an order granting development consent which authorises the CA of a right over common land will be subject to special parliamentary procedure unless: a) the SoS is satisfied that one of subsections (3) to (5) applies; and b) that fact, and the subsection concerned, are recorded in the Order or otherwise in the instrument or other document containing the Order. Subsection (3) applies if the order land, when burdened with the order right, will be no less advantageous than it was before to: (a) the persons in whom it is vested; (b) other persons, if any, entitled to rights of common or other rights; and (c) the public.
- 6.6.47. There is one affected plot of common land identified by the applicant. The plot and rights sought are set out in part 5 of the BoR [\[REP4-013\]](#) and are shown on the Special Category Land Plan [\[PD1-015\]](#). Section 7 of the SoR [\[REP6-016\]](#) also provides an overview of special category land.
- 6.6.48. The SoR [\[REP6-016\]](#) identifies the area of common and within the Order limits as Hall Gate (Track) (plot 17-001) and notes that it is proposed that the onshore export cables would be installed beneath this land using a trenchless technique and that no works are proposed to the surface of this land.
- 6.6.49. The applicant goes on to note that no works are proposed which would affect the use of the common land or its physical appearance. Cables would be located underground and no works would be undertaken to the surface of the common land. As such, the applicant states that land when burdened with the rights, would be no less advantageous than it was before.
- 6.6.50. The ExA agrees with the applicant's assessment that plot 17-001, when burdened with the proposed rights sought by the applicant, would be no less advantageous than it was before to the persons in whom it is vested, persons entitled to rights of common, and the public. The ExA therefore concludes that the test set out in section 132(3) is satisfied.

Open Space

- 6.6.51. The applicant is seeking the CA of rights over land identified as open space. This engages s132 of PA2008. No open space would be subject to CA of land and as such, s131 of PA2008 is not relevant.
- 6.6.52. S132(2) of PA2008 states that an order granting development consent which authorises the CA of a right over open space will be subject to SPP unless: a) the SoS is satisfied that one of subsections (3) to (5) applies; and b) that fact, and the subsection concerned, are recorded in the Order or otherwise in the instrument or other document containing the Order. Subsection (3) applies if the order land, when burdened with the order right, will be no less advantageous than it was before to: (a) the persons in whom it is vested; (b) other persons, if any, entitled to rights of common or other rights; and (c) the public.
- 6.6.53. The affected plots and rights sought are set out in part 5 of the BoR [\[REP4-013\]](#) and are shown on the Special Category Land Plan [\[PD1-015\]](#). Section 7 of the SoR [\[REP6-016\]](#) also provides an overview of special category land.
- 6.6.54. The SoR [\[REP6-016\]](#) notes that the area where the export cables are proposed to make landfall, at Wolla Bank to the South of Anderby Creek (plot numbers 01-001, 01-002, 01-004 and 01-005), is public open space in ownership of the Crown and Lincolnshire County Council.

- 6.6.55. The applicant's description goes on to clarify that the offshore export cables would be installed using trenchless techniques under this land. As a result, the applicant proposes no works which would affect the use of the open space or its physical appearance. The export cables would be located underground and no works would be undertaken to the surface of the open space. The land when burdened with the rights would therefore be no less advantageous than it was before.
- 6.6.56. The ExA agrees with the applicant's assessment that plots 01-001, 01-002, 01-004 and 01-005, when burdened with the proposed rights sought by the applicant, would be no less advantageous than it was before to the persons in whom it is vested, persons entitled to rights of common, and the public. The ExA therefore concludes that the test set out in section 132(3) is satisfied.

Crown Land

- 6.6.57. This section sets out the ExA's consideration of issues related to crown land and rights. It should be read in conjunction with the applicant's final version of the LRT submitted into the examination at D6 [\[REP6-081\]](#).
- 6.6.58. The Order limits include crown land; the BoR [\[REP4-013\]](#), Part 4], and Onshore Crown Land Plans [\[REP6-006\]](#) identifies plots in which there is a Crown interest that would be affected by the proposed development. Articles 20 and 22 of the final dDCO [\[AS-042\]](#) set out the Crown Rights and that nothing in the dDCO authorises the undertaker to interfere with any land or rights of TCE, without the consent in writing of the owner of any Crown interest in the land which is included in the Order limits.
- 6.6.59. The ExA sought updates from the applicant on progress with securing crown consent during the examination [\[EV4-001\]](#), agenda item 3.2.2] and [\[EV14-001\]](#), agenda item 3.2.2]. At close of examination the position with respect to Crown interests is set out in the LRT [\[REP6-081\]](#) and SoR [\[REP6-016\]](#).
- 6.6.60. On 09 April 2025, TCE submitted a letter [\[AS-038\]](#) into the examination which the ExA accepted at its discretion. This letter sets out the Crown Estate Commissioners' conditional consent to the compulsory acquisition of third party rights in TCE plots and assumed plots for the purpose of s135(1) of PA2008.
- 6.6.61. This consent was granted by TCE subject to the inclusion of a new article 44 into the dDCO, with drafting as set out by TCE as well as other conditions set out in its letter [\[AS-038\]](#). The ExA is satisfied that the wording requested by TCE has been inserted into the final dDCO [\[AS-042\]](#) as requested by TCE.

Conclusion on Crown Rights

- 6.6.62. At the close of the examination, crown consent had been received from the relevant Crown authorities, with conditions. The ExA concludes that the Order can authorise the CA or TP of those plots of land and / or interests which are Crown land because the requirement in s135(1) and s135(2) of PA2008 have been met. However, the ExA notes that the applicant remains hopeful, as noted in the LRT [\[REP6-081\]](#) that the necessary land rights could be acquired by voluntary agreement.

Other Land Interests

- 6.6.63. The ExA is satisfied that, with respect to all other land interests, the rights sought for the CA of land, CA of rights and TP of land are for a legitimate purpose, that they

are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Temporary Possession

- 6.6.64. TP powers are sought to facilitate some construction and maintenance activities and, in some instances, as an alternative to reduce the extent of CA. The ExA considers that the TP powers sought would be appropriate to support the delivery of the proposed development in respect of all plots identified for TP in the Land Plans Onshore [\[REP6-004\]](#) and [\[REP6-005\]](#) and BoR [\[REP4-013\]](#).
- 6.6.65. These powers are not CA powers, and accordingly the tests under s122 and s123 of the PA2008 are not applicable. However, the request for the TP powers to enable the proposed development to be implemented and maintained must be justified. Moreover, their inevitable interference with human rights must be justified, and there must be adequate compensation provisions in place for those whose land is affected.
- 6.6.66. The ExA has considered the objections raised by those persons affected by the application for the permanent acquisition of land and the permanent acquisition of rights in land where they may be preceded by TP. The ExA has also taken all relevant objections into account in reaching conclusions on the application for TP powers on plots where they are sought alone, in the same way as for permanent acquisition.
- 6.6.67. The ExA is satisfied that the TP powers sought would be needed to facilitate implementation of the proposed development and that they are justified, including their period of operation. Adequate compensation provisions are in place in the rDCO.

Public Sector Equalities Duty (PSED)

- 6.6.68. The Equality Act 2010 established the public sector equality duty (PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not.
- 6.6.69. PSED under the EA2010 is applicable to the ExA in the conduct of this examination and reporting and to the SoS in decision-making. The ExA had particular regard to the PSED in terms of holding blended in-person/ virtual meetings, producing guidance on holding those meetings, ensuring participants were provided with hard copy correspondence, where requested, and in our conduct of site inspections to ensure full appreciation of the potential impacts of the proposed development on persons with protected characteristics. The ExA is, therefore, satisfied it has fulfilled its duties under PSED.

Human Rights Act 1998 Considerations

- 6.6.70. The Human Rights Act 1998 places the European Convention on Human Rights (ECHR) into UK statute. The ECHR is subscribed to by member states of the Council of Europe. ECHR rights are enforceable in the domestic courts but with final recourse to the European Court of Human Rights. The ECHR, the Council of Europe and the European Court of Human Rights are not European Union (EU) Institutions and were unaffected by the UK's decision to leave the EU.
- 6.6.71. Schedule 1 to the Human Rights Act 1998 sets out the articles. Articles 6 and 8 and article 1 of the First Protocol are engaged by the proposed development.

- 6.6.72. Paragraph 10 of the CA Guidance states that the SoS must ultimately be persuaded that the purposes for which an order authorises the CA of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of article 1 of the First Protocol to the ECHR.
- 6.6.73. The applicant's case to justify interference with Human Rights is set out in the SoR [\[REP6-015\]](#) section 13. The applicant stated that given the inclusion of the CA powers in the dDCO, there is a possibility that articles 1 of the First Protocol and article 8 of persons who hold interests in the Order land would be infringed.
- 6.6.74. In preparing the application, the applicant has considered article 1 and the potential infringement of the ECHR rights in consequence of the inclusion of CA powers within the Order and has sought to minimise the amount of land over which it requires powers of CA. The applicant considers that there would be a very significant public benefit arising from the grant of the Order. The benefit is only realised if the Order is accompanied by the grant of powers of CA.
- 6.6.75. The applicant has concluded that on balance the significant public benefits outweigh the effects upon persons who own property within the Order Land. For those affected by expropriation or dispossession, compensation is payable in accordance with the Compensation Code. The applicant considers that the Order would therefore strike the right balance between the public interest in the delivery of the proposed development and those private rights that would be affected by the Order.
- 6.6.76. In relation to article 6, the applicant considers that there has been opportunity to make representations regarding the preparation of the application. The Project has been extensively publicised, and consultation has taken place with the community, affected landowners and occupiers, and key stakeholders.
- 6.6.77. With regards to article 8, while rights are proposed to be acquired over land that is used in connection with dwellings such as accesses, driveways and boundary features, and there are residential dwellings in proximity to the Order limits, there are no dwellings within the Order Land. No residents will be displaced by the powers of CA sought in the Order and no residential dwellings are proposed to be acquired or demolished for the purposes of the proposed development. Only limited powers of CA and/or temporary use are sought over land used in connection with a dwelling so as to provide access for construction and/or operational purposes.
- 6.6.78. The ExA's overall conclusion relating to article 1 of the First Protocol is that the purpose for which the CA of the land within the Order limits are being sought, is legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.
- 6.6.79. In respect of article 6, the ExA concludes that the process of examining this application, including the opportunities to submit representations, a series of WQs and the opportunities to be heard at hearings, all mean that those whose rights may be affected have been given access to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- 6.6.80. With respect to article 8, the ExA concurs with the applicant that the right of the individual to respect for their private and family life, their home and their correspondence would not be adversely affected.

Availability and Adequacy of Funds

- 6.6.81. The applicant provided a funding statement (FS) [\[REP2-019\]](#) which set out an estimated cost range for the proposed development between £5.5 and £7.5 billion, including costs relating to construction, development, project management, financing and land acquisition. Regarding land acquisition / compensation costs, the applicant estimated this would be in the region of £2.89 million.
- 6.6.82. This includes advice upon the value of the land or rights/restrictions acquired. compensation for severance and injurious affection pursuant to section 7 of the Compulsory Purchase Act 1965; potential Part 1 Land Compensation Act 1973 claims and section 10 Compulsory Purchase Act 1965 injurious affection claims; and statutory blight. A provision has also been included for losses arising from the exercise of the TP powers sought under the rDCO (articles 28 and 29).
- 6.6.83. The FS set out that the applicant would be responsible for providing funding to cover the abovementioned costs, noting that the applicant comprises a limited company with shareholdings divided equally between TotalEnergies Renewables R4 HoldCo Limited and Maryland HoldCo Limited, with the backing from their parent companies and investors TotalEnergies S.E, Macquarie Group Limited, MGECO and Gulf Energy Development Public Company Limited. The FS set out that each of these companies have substantial assets and considerable experience in infrastructure development.
- 6.6.84. Additionally, the applicant has included article 45 in its dDCO [\[AS-042\]](#), (which has been taken through to the rDCO), which provides that CA powers contained in the rDCO must not be exercised unless a guarantee (or an alternative form of security) in respect of the liabilities of the undertaker to pay compensation in respect of the exercise of the relevant powers is in place.
- 6.6.85. The form and the amount of the guarantee (or other form of security) must be approved by the SoS. It will be for the SoS to satisfy themselves in relation to the adequacy and amount of the guarantee (or other form of security) provided at the relevant time.
- 6.6.86. Considering the above and:
- The responses provided by the applicant [\[REP2-051\]](#) to the ExA's WQs on funding [\[PD-013\]](#).
 - The answers provided by the applicant at CAH1 [\[REP3-039\]](#) in relation to this issue.
- 6.6.87. The ExA concludes that there is a reasonable prospect of the requisite funds for acquisition becoming available within the necessary timescale, to meet all financial liabilities arising from the exercise of the CA and TP powers sought.

6.7. ExA'S CONCLUSIONS ON THE CASE FOR CA AND TP

Land to which Authorisation of CA can Relate s123(2) of PA2008

- 6.7.1. The ExA concludes that in accordance with s123(2), there is appropriate provision for CA in the rDCO.
- 6.7.2. In accordance with the requirement in the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009, the applicant has included

and updated through the examination as required, a SoR, a FS, Land Plans and a BoR. However, the final BoR submitted at D6 [\[REP6-013\]](#) was incomplete.

Compliance with s122(2) and DCLG Guidance and the Order Limits

- 6.7.3. While the ExA recognises that the Order limits are very wide, the powers in the rDCO would eventually restrict the applicant to no more than needed and therefore the net position would be a reduced Order limits and Order land. The SoS has accepted this approach in other Orders.
- 6.7.4. The ExA is therefore satisfied that the land subject to CA is required for the development to which the development consent relates or is required to facilitate or be incidental to the development and that the land and rights to be taken are no more than is reasonably required for the purposes of the development, is no more than is reasonably necessary and is proportionate and thus complies with s122(2) of PA2008 and DCLG CA Guidance.

The Acquisition of Land Interests by Agreement

- 6.7.5. S122(3) of the PA2008 requires there to be a compelling case in the public interest for the CA of land.
- 6.7.6. Paragraph 25 of the CA Guidance requires applicants to acquire land by negotiation wherever practicable. Part 2 of the Guidance on the Compulsory Purchase Process and Crichel Down Rules (which the CA Guidance references at paragraph 45) makes it clear that compulsory purchase (acquisition) is a last resort and the confirming authority (the SoS) will expect the acquiring authority (the applicant) to demonstrate they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement.
- 6.7.7. Taking the land or rights of an individual person or a company is an intrusive power, which can infringe human rights. It is one that government over many years has wrapped around with clear policies and special controls, to ensure that land or rights are not taken capriciously and without clearly demonstrated public benefit, especially where such powers are provided to other private companies.
- 6.7.8. The CA system sits in parallel to the consideration of planning merits by an ExA. Even where the planning merits of the proposed development are demonstrated to be policy compliant by an applicant, an ExA will always consider a CA request within the framework set by the relevant law and guidance. It is possible and appropriate that if legal or policy tests set for CA are not met, that a CA request may be recommended to be denied in part or even in whole, even where the planning merits of the proposed development for which it is sought have been clearly proven. In short: if an applicant pays insufficient attention to CA law and policy, it can end up benefitting from a recommendation to consent development, but to deny elements of the CA powers necessary to assemble the land and rights required. The onus is always on the applicant to make sure that the CA case is made out and that reasonable steps have been taken to progress it.
- 6.7.9. Having considered individual objections and issues as set out in Part C, on the basis of the evidence of engagement with land interests provided by the LRT, the ExA is satisfied that the applicant has generally demonstrated that it has taken reasonable steps to acquire all of the land and rights included in the Order by agreement in accordance with the CA Guidance and Guidance on the Compulsory Purchase Process and Crichel Down Rules.

- 6.7.10. However, for the reasons set out earlier in this chapter, the ExA has been unable to give any weight to the final BoR submitted by the applicant at D6 and has instead relied on an earlier, complete, version [REP4-013] submitted by the applicant. The ExA has no reason to suspect that this is due to anything other than an administrative oversight. Notwithstanding this, the SoS may nevertheless wish to satisfy themselves that the applicant's BoR can be reconciled with the applicant's schedule of changes to the BoR [REP6-015] by requesting that the applicant submit an updated version for consideration by the SoS.

Section 122(3) – Whether there is a Compelling Case in the Public Interest

- 6.7.11. The ExA has had regard to all the objections raised by APs. Notwithstanding the objections, the ExA concludes that the public benefits associated with the proposed development would strongly outweigh the private loss which would be suffered by those whose land would be affected by the CA powers sought.
- 6.7.12. The ExA has also taken into account the particular points made by objectors in relation to alternatives. The ExA is, however, satisfied that the applicant has explored all reasonable alternatives to CA, including modifications to the proposed development. The objections raised do not dissuade the ExA from the conclusion that there are no alternatives to the CA powers sought which would be preferred.
- 6.7.13. The applicant has demonstrated a clear idea of how it intends to use the land, and it has shown that there is a reasonable prospect of the requisite funds, both for CA and implementing the proposed development, becoming available.
- 6.7.14. The ExA considers that:
- The development for which the land is sought would be in accordance with national policy as set out in the relevant NPS.
 - NPS EN-1 confirms that the proposed development is a CNP and states that *“the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation.”*
 - The need to secure the land and to construct the proposed development within a reasonable timeframe represents a significant public benefit to weigh in the balance.
 - The applicant has taken reasonable steps to acquire all of the land and rights included in the Order by agreement.
 - The private loss to those affected has been mitigated through the selection of the application land and the extent of the land, and the private loss would be outweighed by the public benefit derived from the CA powers sought.
 - The applicant has explored all reasonable alternatives to CA, and there are no alternatives which ought to be preferred.
 - There is a reasonable prospect that adequate and secure funding would be available to enable the CA within the statutory period following the Order being made.
- 6.7.15. Taking these various factors together, the ExA concludes that there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the final Land Plans [REP6-004] and [REP6-005] and BoR [REP4-013]. The proposal would thus comply with s122(3) of PA2008.

Statutory Undertakers

- 6.7.16. The ExA's conclusions with regard to PPs and the rDCO are set out in Section 7 of this Recommendation.
- 6.7.17. The ExA is satisfied that s127 of PA2008 was never engaged for Centrica, Spalding Energy Company Ltd, National Grid Electricity Distribution (East Midlands) PLC, Openreach, Intergen (UK)Ltd and Triton Knoll as no representations were received from them. The ExA is also satisfied that the powers sought by the Applicant are necessary for the proposed development and the test in s138(4) of PA2008 has been met and there would be no serious detriment to the undertakings of these APs.
- 6.7.18. Considering outstanding representations from the drainage boards, NR, NGET and the fact that they are identified as landowners, the ExA considers that s127 is engaged and has been met. The ExA is satisfied that the powers sought are necessary for the proposed development and the test in s138(4) of PA2008 has been met and there would be no serious detriment to the undertakings of these APs.
- 6.7.19. The ExA is satisfied that s127 of PA2008 is no longer engaged for NGT, Cadent, and AW since they have each withdrawn their representations from the examination. The ExA is also satisfied that the powers sought by the Applicant are necessary for the proposed development and the test in s138(4) of PA2008 has been met and there would be no serious detriment to the undertakings of these APs.

Common Land

- 6.7.20. Given the limited extent of disturbance on common land, the ExA is satisfied that the effects of the proposed development on common land would be temporary and short term only. The ExA therefore concludes that the test set out in s132(3) of the PA2008 is satisfied in this regard. Consequently, the ExA is also in agreement with the applicant's approach not to include any replacement land within the Order limits.

Open Space

- 6.7.21. Given the limited extent of disturbance on open space land, the ExA is satisfied that the effects of the proposed development on public open space would be temporary and short term only. The ExA therefore concludes that the test set out in s132(3) of the PA2008 is satisfied in this regard. Consequently, the ExA is also in agreement with the applicant's approach not to include any replacement land within the Order limits.

Crown Land in accordance with s135

- 6.7.22. At the close of the examination, Crown consent had been received from the relevant crown authorities, with conditions. The ExA concludes that the Order can authorise the CA or TP of those plots of land and / or interests which are Crown land because the requirements in s135(1) and s135(2) of PA2008 have been met.

Temporary Possession

- 6.7.23. The ExA is satisfied that the TP powers sought are necessary to implement and maintain the proposed development and that adequate compensation provisions are in place in the rDCO.

Public Sector Equality Duty

- 6.7.24. PSED under the EA2010 is applicable to the ExA in the conduct of this examination and reporting and to the SoS in decision-making. In compliance with its duties under PSED, the ExA invited representation in a range of different methods: written format, online via video link, and in person at venues with adequate accessibility provisions. In that regard the ExA is satisfied it has fulfilled its duties under PSED.

Human Rights

- 6.7.25. The ExA has had regard to the provisions of the Human Rights Act 1998. These are qualified rights and the weight of national policy in favour of the proposed development and the public benefits arising from the proposed development means that the interference in the human rights of affected owners and occupiers would be proportionate and justified in the public interest. The ExA is further reassured that the applicant is seeking to acquire the minimum possible rights and interests that would be needed to construct, operate and maintain the proposed development.

Availability and Adequacy of Funds

- 6.7.26. The parent companies of the partnership of which the applicant is comprised have substantial assets and considerable experience in infrastructure development. In addition, the applicant has included article 45 in the dDCO which provides that CA powers contained in the dDCO must not be exercised unless a guarantee (or an alternative form of security) in respect of the liabilities of the undertaker to pay compensation in respect of the exercise of the relevant powers is in place. The form and the amount of the guarantee (or other form of security) must be approved by the SoS.
- 6.7.27. The ExA concludes that there is a reasonable prospect of the requisite funds for acquisition becoming available within the necessary timescale, to meet all financial liabilities arising from the exercise of the CA and TP powers sought.

6.8. THE EXA'S RECOMMENDATIONS ON CA AND TP

- 6.8.1. Should the SoS be minded to grant development consent for the proposed development, the ExA recommends, subject to the provision of a final and complete Book of Reference by the applicant which accords with the final Schedule of Changes to the Book of Reference [[REP6-015](#)], that:

- The CA powers included in the rDCO (including the currently preferred versions of PPs unless alternatives have been agreed since the close of the Examination) be granted.
- The TP powers included in the rDCO be granted.
- The powers authorising the CA of SUs' land and rights over land included in the rDCO be granted.

The powers authorising the extinguishment of rights and removal of apparatus of SUs included in the rDCO be granted.

7. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

7.1. INTRODUCTION

- 7.1.1. The application draft Development Consent Order (dDCO) [[APP-303](#)] and the Explanatory Memorandum (EM) [[APP-304](#)] were submitted by the Applicant as part of the application for development consent.
- 7.1.2. The application draft DCO was broadly based on the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009; but departed from those clauses to draw upon drafting used in made Orders for similar development under the Planning Act 2008 (PA2008), the Transport and Works Act (TWA) 1992 and other Acts authorising development. Although there has been a change of approach to the use of Model Provisions since the Localism Act 2011, they remain a starting point for the consideration of the DCO. Precedent cases have also been considered where appropriate. The dDCO and subsequent iterations are in the form of a Statutory Instrument as required by section (s) 117(4) of the PA2008 in view of proposed modifications to statutory provisions.
- 7.1.3. This chapter provides a summary of the main changes made to the dDCO during the examination, between the application dDCO and a final dDCO submitted by the applicant at the end of the examination [[AS-042](#)].
- 7.1.4. The Examining Authority (ExA) reports on the main discussion points and the contentious matters. We do not report on every change made in the updated versions. This is because many amendments were made as a result of typographical or referencing errors; slight revisions of the wording following either discussion between the applicant and relevant interested parties (IPs) or from their written representations (WRs), or as a result of minor changes following the ExA's Written Questions (ExQ1) [[PD-013](#)] and Further Written Questions (ExQ2) [[PD-012](#)]. The recommended DCO (rDCO) in Appendix C of this Recommendation incorporates these minor changes.

7.2. THE ORDER AS APPLIED FOR

- 7.2.1. The final draft DCO [[AS-042](#)] is structured as follows:
- Part 1, articles 1 and 2 are the preliminary matters including how the Order may be cited and when it comes into force, the meaning of various terms used in the Order and the disapplication of other legislation.
 - Part 2, articles 3 to 8 are the principal powers of the Order, allowing amongst other things, the undertaker to implement, maintain and, if necessary, transfer the benefits of the Order.
 - Part 3, articles 9 to 16 convey works provisions including provide for the undertaker to be able to carry out works to and within streets, alter layouts, to create or improve accesses, to permanently close streets, and to undertake agreements with street authorities and any protective works to buildings.
 - Part 4, articles 17 to 19 refer to the supplemental powers of the Order, to deal with matters such as the discharge of water; to survey and investigate land and the removal of human remains.
 - Part 5, articles 20 to 31 provide for the undertaker to be able to compulsorily acquire the Order land and rights over/ within it, and to be able to temporarily use parts of the Order land for the construction or maintenance of the proposed

development. The provisions provide for compensation to be payable to affected persons (APs) in respect of these powers, where that is not already secured elsewhere. These articles also provide for powers in relation to land and equipment of statutory undertakers (SUs).

- Part 6, article 32 provides for 7 deemed marine licences: one for the generation assets, one for the offshore transmission assets, 4 for potential artificial nesting structures and one for the creation of biogenic reef in specified areas within the Inner Dowsing Race Bank and North Ridge Special Area of Conservation (SAC)
- Part 6, articles 33 to 48 are concerned with miscellaneous and other general matters including the provision of powers in relation to trees which need to be removed or lopped in relation to the proposed development, the disapplication of other legislative provisions; operational land in respect of the Town and Country Planning Act 1990; service of notices; and arbitration.

7.2.2. There are 22 schedules to the Order. They are:

- Schedule 1 is the description of the Authorised Development which includes Part 3, the requirements.
- Schedule 2 lists the streets subject to street works.
- Schedule 3 concerns Public Rights of Way (PRoWs); those to be temporarily closed; those to be substituted temporarily and those subject to substitution to be agreed.
- Schedule 4 lists those streets to be temporarily closed.
- Schedule 5 lists the access to works.
- Schedule 6 gives details of speed limit restrictions, prohibitions on vehicular access and no waiting restrictions that may be imposed by the undertaker.
- Schedule 7 lists the plots as shown on the Land Plans [\[AS-025\]](#) which would be subject to compulsory acquisition of new rights.
- Schedule 8 is the modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants.
- Schedule 9 lists the plots as shown on the Land Plans which would be subject to TP.
- Schedules 10, 11, 12, 13, 14, 15 and 16 are the deemed marine licences (DMLs); schedule 10 concerning generation assets and schedule 11 concerning transmission assets, schedules 12 to 15 concerning the potential artificial nesting structures and schedule 16 concerning biogenic reef creation.
- Schedule 17 lists the hedgerows for removal.
- Schedule 18 lists the provisions protecting SUs and their apparatus.
- Schedule 19 is the arbitration rules should the undertaker and the party responsible for the discharge of the requirement disagree.
- Schedule 20 sets out the provisions for the discharge of requirements as set out in schedule 1.
- Schedule 21 lists the certified documents.
- Schedule 22 secures compensatory measures to ensure the overall coherence of the national site network should the Secretary of State (SoS) conclude that such measures are necessary.

7.2.3. The ExA asked 9 questions at ExQ1 [\[PD-013\]](#) and 2 more at ExQ2 [\[PD-020\]](#) in relation to matters concerning the Order. The applicant responded [\[REP2-051\]](#) and [\[REP4-107\]](#) clarifying matters sought by the ExA. The ExA asked further questions related to the dDCO during hearings, at issue specific hearing (ISH)1 [\[EV5-001\]](#), ISH5 [\[EV10-001\]](#) and ISH8 [\[EV13-001\]](#). The ExA also issued a commentary on the dDCO recommended changes during the examination [\[PD-026\]](#) with suggested changes either accepted or rejected by the applicant. In addition, the applicant

remained in discussions with various IPs such that, at each deadline (D), updated dDCOs were submitted into the examination.

7.3. ITERATIONS OF THE dDCO

- 7.3.1. The applicant's Schedule of Changes to the Draft DCO [\[AS-044\]](#) sets out the iterations of the dDCO post submission with a summary of the alterations that were made. Such changes are explained within the applicant's Schedule of Changes [\[REP1-008\]](#), [\[REP2-011\]](#), [\[REP3-008\]](#), [\[REP4-010\]](#), [\[REP4a-008\]](#), [\[REP5-004\]](#), [\[REP6-010\]](#) and [\[AS-044\]](#) submitted alongside the updated dCOs, the most common explanations arise from questions or comments raised by the ExA or through ongoing discussions with IPs and APs.
- 7.3.2. No IPs raised any concern with the description of the Authorised Development during the examination, or with the description of the works or the documents to be certified.
- 7.3.3. The EM describes the purpose of the dDCO as originally submitted, with each of its articles and schedules. The EM was updated five times during the Examination as follows: D2 [\[REP2-014\]](#); D3 [\[REP3-009\]](#); D4 [\[REP4-011\]](#); D4a [\[REP4a-009\]](#), D5 [\[REP5-005\]](#), D6 [\[REP6-011\]](#), and an additional submission, accepted at the ExA's discretion before the close of the examination [\[AS-045\]](#).

7.4. CONTENTIOUS MATTERS IN THE EXAMINATION

- 7.4.1. The principal matters of contention in the examination and which were primarily concerned with the drafting of the Order related to:
- article 6 (Benefit of the Order)
 - schedules 10 -16 (DMLs)
 - article 19 (Removal of Human Remains)
- 7.4.2. IPs raised other issues with potential to affect the drafting of the Order. In cases where these effects have arisen as a result of issues relating to other topics covered in this Recommendation, these matters have been addressed within those relevant topic area sections. Amendments to drafting proposed in the rDCO as a result of these issues are dealt with later in this chapter.

Article 6 – Benefit of the Order

- 7.4.3. The Marine Management Organisation (MMO) set out its position objecting to the drafting of article 6 [\[AS1-024\]](#) in its relevant representation (RR) [\[RR-042\]](#). It identified significant concerns over the wording of article 6 in areas where it believes this wording departs from, or duplicates powers already contained within the Marine and Coastal Access Act 2009 (MCAA2009).
- 7.4.4. The MMO commented that articles 6(1) and (2) represented a clear departure from MCAA2009, which would normally require an undertaker to make an application to the MMO for a licence to be transferred, rather than have consent be provided by the SoS and that it was unclear what criteria the SoS would consider in determining whether to approve any transfer, or how this would differ from a consent granted by the MMO. The MMO argued that this had the potential for confusion and duplication.
- 7.4.5. The MMO further highlighted that article 6(2)(b) [\[AS1-024\]](#) does not require the consent of the SoS to the temporary transfer of benefits of the DCO (including

DMLs), arguing that this would create an additional administrative procedure for marine licences without clarity around how it would operate.

- 7.4.6. The MMO also raised concerns about the drafting of article 6(3) [\[AS1-024\]](#), noting that this article would not oblige the SoS to consider the views of the regulatory authority (the MMO) when considering the issue of transfer of benefits. The MMO acknowledges that article 6(3) does require the SoS to consult with it but considers it irregular that a decision to transfer a licence should not be the decision of the regulatory authority in that area.
- 7.4.7. In addition, the MMO objected to article 6(12) [\[AS1-024\]](#) which seeks to disapply section 72(7) and (8) of MCAA2009, which deal with variation, suspension, revocation and transfer of DMLs. The MMO noted that this conflicts with its view that any DML granted by the Order should be regulated by MCAA2009 and specifically by s72 and that seeking to disapply this legislation would render DMLs granted by this Order inconsistent with those issued by the MMO, which would also be inconsistent with the Planning Inspectorate (PINS) guidance in Advice Note 11 on how DMLs should operate within a DCO.
- 7.4.8. The MMO also noted that it considered provisions on force majeure to be unnecessary within the dDCO as MCAA2009 provides a defence for action taken in an emergency in breach of licence conditions and sets out the consequences if an undertaker fails to notify the appropriate licencing authority within a reasonable timeframe.
- 7.4.9. The applicant responded [\[PD1-071\]](#) to the MMOs RR [\[RR-042\]](#), noting that drafting such as that contained within article 6 is a standard provision with significant precedent in made DCOs. The applicant stressed the article's importance since the regulatory regime requires that the transmission infrastructure be transferred to an offshore transmission owner. The applicant also expressed the view that the wording of article 6 reflected current practice and that it considered that wording to be appropriate in the context of the dDCO.
- 7.4.10. The applicant also noted that it considers that it would be appropriate for the SoS to approve a transfer of benefits (in the event that paragraph 6 did not apply) because it would be the SoS that grants the Order and therefore the SoS would be the relevant regulator in the case of the DCO, including any DMLs contained therein. The applicant further noted that article 6 would cover the transfer of benefits related to works and powers within the DCO, in addition to licenced activities under the DMLs and that it would not, therefore, be appropriate or practical to require the consent of the SoS in respect of DCO aspects only alongside the consent of the MMO in respect of DML aspects. The applicant's view was that such an approach would create unnecessary duplication.
- 7.4.11. The applicant's response [\[PD1-071\]](#) also noted that it considered it to be both sufficient and appropriate for there to be an obligation on the SoS to consult with the MMO. The applicant also commented that it would be neither necessary nor standard practice for a DCO to include a requirement for the SoS to consider, or take account of, the views of bodies which it consulted, since it would be reasonable to assume that this would be done as a matter of course.
- 7.4.12. Regarding the provision within the dDCO to disapply s72(7) and (8) of MCAA2009, the applicant disagreed [\[PD1-071\]](#) with the MMO's interpretation of PINS guidance in Advice Note 11. The applicant stated that it considers that the guidance advising that any marine licence deemed by a DCO should be generally consistent with

those issued by the MMO relates to the content of a DML, rather than the mechanism for transferring DMLs.

- 7.4.13. During the examination, the ExA requested updates [\[PD-020\]](#) from the MMO on progress towards resolution of the differences between it and the applicant on these matters.
- 7.4.14. The MMO responded [\[REP4-129\]](#) that it continued to disagree with the applicant's reasoning for the inclusion of the wording in article 6, noting that it believed that it would cause more work and would not streamline the process. The MMO further noted that it believed that there would not be a resolution regarding transfer of benefit during the examination.
- 7.4.15. The ExA examined this issue further at ISH5 [\[EV10-001\]](#). The ExA requested that the MMO take part in ISH5, but it was unable to attend either at the hearing venue or online. The ExA therefore put the concerns raised by the MMO to the applicant.
- 7.4.16. With regard to article 6, the applicant noted at ISH5 [\[EV10-001\]](#) that the issues raised by the MMO may remain outstanding at the close of the examination but pointed out that this was a matter that had been debated at length in other DCO applications and examinations and that the SoS has concluded in previous decisions that such an article is appropriate and in line with MCAA2009.
- 7.4.17. The ExA asked the applicant whether there was a possibility that drafting the article in the way that it has could lead to the possibility of the SoS making an unsafe decision. The applicant responded to set out that it cannot draft on the basis that the SoS might make an error of law. Rather, the applicant asserted, it must be the case that the SoS is assumed to exercise its responsibility lawfully and reasonably. The applicant confirmed that it has not envisaged and neither has it drafted on the basis of the SoS making an unsafe decision.
- 7.4.18. The ExA requested, via a post-hearing action point (AP33) [\[EV9-001\]](#), a response from the MMO at D4a but notes that the response received [\[REP4a-132\]](#) did not provide further clarity and restated the MMO's view it was likely to remain in disagreement at the close of the examination. However, in response to the same action point, the applicant provided an agreed joint statement with the MMO, which reads as follows:

"The Applicant and the MMO have continued to engage in relation to their differing views on the inclusion of Article 6 (Benefit of the Order) of the Development Consent Order, including most recently at a meeting on 20 February 2025. Both parties acknowledge that provisions similar to those set out in Article 6 have been included in numerous previous DCOs for offshore wind farms. However, the Applicant and the MMO disagree on the principle of whether such a mechanism ought to be included in DCOs. The Applicant and the MMO consider it unlikely that a resolution will be reached in respect of this issue prior to the close of Examination."

The ExA Reasoning on Article 6 – Benefit of the Order

- 7.4.19. The ExA notes the MMO's closing statement [\[REP6-134\]](#) that its position remains unchanged and that it continues to strongly disagree with the inclusion of the DML in any article relating to the transfer of benefit. The ExA also notes the applicant's closing statement [\[REP6-121\]](#), which refers back to the joint statement above.

- 7.4.20. The ExA recognises that the drafting of article 6 has never been intended to apply to the MMO alone; the article deals with all licences that would be required to construct the proposed development and must, therefore, be fit for purpose for those eventualities. The ExA is mindful that a key purpose of PA2008 is to provide a simpler, singular, process for obtaining consent for nationally significant infrastructure projects within one legal instrument - the recommended Order.
- 7.4.21. The ExA also recognises that articles similar to that proposed by the applicant in this case have been included in numerous made DCOs for offshore wind farms. It therefore believes that it is safe to reason that in those cases the SoS made its decision on firm legal ground and that the SoS should not in this case be unduly concerned that the inclusion of provisions such as those set out in article 6 might be unsafe.
- 7.4.22. For these reasons, the ExA does not recommend that the MMO is made exempt from article 6. However, should the SoS disagree, the following amendments would need to be made to the final dDCO [[AS-042](#)]:
- Replace article 6(3) with “The undertaker must obtain the consent of the MMO to the transfer or grant to another person of the benefit of any or all of the provisions of any of the deemed marine licences.”
 - Delete article 6(12)

Schedules 10 to 16 – DMLs

- 7.4.23. At the close of the examination, the MMO had a number of issues [[REP6-134](#)] with the drafting contained within the DMLs. These issues are summarised in the table below:

Table 5 – Summary of outstanding changes requested by the MMO at the close of the examination

No.	schedule (condition)	Summary of change
1	NA	MMO considers that DMLs should have an end date included to keep them in line with other Marine Licenses that include construction and maintenance activities. This makes it clear that a full reassessment will be required at the end date to ensure that required modelling is reviewed and reassessed.
2	10(12), 11(12), 13(9), 14(9), 15(9) and 16(7)	The MMO maintains that these conditions, relating to the use of the term “ <i>force majeure</i> ” should be removed.
3	12(11), 13(11), 14(11) and 15(11)	The MMO maintains that the timescale for submission of marine mammal mitigation protocols (MMMP) must be 6 months regardless of the scale of activity
4	10 para 2(i), 10(11)(5), 11 para 2(i), 11(11)(5), 12 para 2(i), 12(8)(5), 13 para 2(i), 13(8)(5), 14	MMO note that the conditions already state ‘within the disposal site reference(s) to be provided by the MMO within the extent of the Order limits seaward of mean high water springs (MHWS)’. MMO welcomes this update

	para 2(i), 14(8)(5), 15 para 2(i) and 15(8)(5),	and believes this should be updated to include 'in writing'.
5	10(21) and 11(21)	MMO has reviewed the condition wording in correspondence and agreement with NE, and has proposed to the applicant, updated wording to be included within the DCO/DML. <i>'No cable protection granted by this licence may be deployed within the IDRBNR SAC after the construction period has ended. Any cable protection to be installed outside of the IDRBNR SAC following completion of construction in locations where cable protection was not installed during construction must be deployed within 10 years of completion of construction, unless otherwise agreed by the MMO in writing.'</i>

- 7.4.24. The applicant's final dDCO [[AS1-024](#)] did not incorporate any of the changes requested by the MMO and set out in table 5 above.
- 7.4.25. For item no 2, the ExA has noted the MMO's concerns [[REP4-129](#)] relating to force majeure conditions within the dDMLs, noting that the wording proposed by the applicant could be interpreted as broadly covering any eventuality.
- 7.4.26. The ExA raised this issue with the applicant at ISH5 [[EV10-001](#)]. In responses to questioning at ISH5, the applicant remained of the opinion that the provision should remain in order to cover circumstances where necessity, through reasons such as threats to vessel or human life, required that a deposit was made.
- 7.4.27. The ExA noted that with the inclusion of the term "any other cause" in this context, the range of possible circumstances was far broader than that generally understood by the term force majeure, since "any other cause" could include negligence, for example.
- 7.4.28. The applicant recognised this and while it maintained that the provisions related to these conditions should remain, it accepted that the most appropriate way to address the concerns raised might be to amend the title of these conditions. The ExA notes that the dDCO issued at the deadline immediately following ISH5 included conditions 10(12), 11(12), 13(9), 14(9), 15(9) and 16(7) which had been re-titled as "Notification of unauthorised deposits".
- 7.4.29. The MMO remain opposed to the inclusion of these conditions [[REP5-174](#)], with this position remaining unchanged at the close of the examination [[REP6-134](#)].and the MMO suggesting that it remains unclear as to the applicant's motive for including such conditions.

The ExA's Reasoning on Schedules 10 to 16 – DMLs

- 7.4.30. The ExA believes that the applicant's response during questioning at ISH5 [[EV10-001](#)] set out its reasoning for the inclusion of these conditions quite clearly and notes that the MMO did not attend that hearing. The ExA takes the view that the amendment to the title of the conditions in question removes the possibility of a vessel master citing force majeure as a justification for making an unauthorised deposit, but that the possibility of a master needing to carry out such an action if

vessel safety or human life is at risk remains and that there should be a satisfactory means of mitigating such a risk.

- 7.4.31. The ExA also notes that further drafting within these conditions secures the removal of deposits made in the circumstances set out above, at the expense of the undertaker unless written approval is obtained from the MMO.
- 7.4.32. For the reasons set out above, the ExA does not support the MMO's position that these conditions should be removed and recommends that they remain as drafted in the rDCO. The ExA notes with some frustration that the applicant and the MMO have failed to reach agreement on this matter and is therefore bound to highlight to the SoS that if they do not agree with the ExA's reasoning on this matter, they may wish to consult further with both the MMO and the applicant on the status of these conditions.
- 7.4.33. For item no 4, the ExA can understand that the drafting of the sections in question could already be reasonably interpreted to imply that the MMO would provide disposal site reference(s) in writing. Nevertheless, for the sake of clarity, it supports the MMO's request to make this clear by adding the words "in writing" to the drafting of these sections. The ExA has, therefore, amended the drafting to reflect this within its rDCO.
- 7.4.34. For item no 5 above, the ExA is aware that in addition to the concerns raised by the MMO, NE also raised concerns related to post-construction activities [\[REP1-064\]](#). NE raised specific concerns over the laying of further cable protection within the area specified following the completion of the construction period. This concern remained throughout the examination. NE set out in [\[REP6-145\]](#) that, in agreement with the MMO proposed the wording included in item no 5 of table 5 above.
- 7.4.35. The ExA considers that the inclusion of the MMO and NE's preferred wording at condition 21 in the rDCO would secure the commitment requested from NE relating to works likely to be required within the construction period and limiting those works to be undertaken outside of this period.
- 7.4.36. The ExA takes the view that the insertion of the additional wording to condition 21 of the DCO/DML, as set out above, would go some way to satisfying concerns of NE and the MMO in relation to the placement of cable protection by clarifying the wording currently set out in the applicants dDCO [\[AS-042\]](#). The ExA has, therefore, inserted the wording above into the rDCO.
- 7.4.37. For the other items set out in table 1 above, the ExA is disappointed that both parties were unable to resolve differences before the close of the examination. Indeed, the ExA considers that many of these issues should have been resolved some time ago. The ExA has not supported further amendments to the dDCO, as suggested by the MMO. Having had regard to these matters during the examination, the ExA finds the applicant's position regarding these outstanding issues to be persuasive and recommends no further changes to drafting is required in relation to items 1 and 3 in table 5 above.
- 7.4.38. Nevertheless, because discussions were still ongoing at the close of the examination, the ExA considers that it regretfully must suggest to the SoS that they seek further information from the MMO and the applicant on the status of the outstanding objections raised by the MMO.

7.5. ExA's CONSULTATION dDCO

7.5.1. The ExA issued its Recommended Changes to the dDCO on 28 February 2025 [PD-026]. This set out 27 recommended changes. The applicant responded at D5 [REP5-148], accepting and amending some of the suggested changes, whilst rejecting others with an explanation. The ExA summarises the suggested changes below in table 6 which the applicant did not adopt, noting whether the ExA accepts the applicant's position or not.

7.5.2. Table 6 concerns all matters other than those related to article 6 and the DMLs, which are discussed above.

Table 6 – Summary of ExA's recommended changes to the dDCO, whether change was accepted by the applicant and the ExA's response.

No.	Article / schedule	Summary of change	ExA's response
1	Article 22(1)	Insert additional wording to ensure that new rights and restrictive covenants that would be acquired are satisfactorily defined	The applicant's reasoning is accepted
2	Article 44(2)	Insert additional wording to fully align the article with s135(1) of PA2008	The applicant's reasoning is accepted
3	Article 44(3)	Insert additional wording to take account of additional drafting added to article 44(2)	The applicant's reasoning is accepted
4	Schedule 1, part 3, requirement 11(2)	Alterations to drafting to amend timescales for planting replacement periods	The applicant's reasoning is accepted
5	Schedule 7	Insert additional wording to ensure that waterlogging issues can be addressed in as timely a manner as possible	The ExA does not accept the applicant's reasoning
6	Schedule 10	Insert additional condition to protect spawning Banks herring and their eggs and larvae during their spawning season	The ExA notes that whilst the applicant initially disagreed that such a condition was necessary, it has agreed the wording of a new condition for this purpose with the MMO
7	Schedule 12	Insert additional condition to protect spawning Banks herring and their eggs and larvae during their spawning season	The ExA notes that whilst the applicant initially disagreed that such a condition was necessary, it has agreed the wording of a

			new condition for this purpose with the MMO
	Schedule 13	Insert additional condition to protect spawning Banks herring and their eggs and larvae during their spawning season	The ExA notes that whilst the applicant initially disagreed that such a condition was necessary, it has agreed the wording of a new condition for this purpose with the MMO

Schedule 7

- 7.5.3. This matter is covered in greater depth within chapter 3.12. In its WR [\[REP1-050\]](#), T.H. Clements & Son Ltd (THC) sought revisions to schedule 7(B)(c) of the dDCO in relation to its agricultural land interests in order for it to continue to quickly address waterlogging issues by digging trenches as a matter of urgency to avoid crop loss.
- 7.5.4. The applicant objected [\[REP5-148\]](#) and [\[REP5-150\]](#) on the basis that the wording proposed by THC would require the undertaker to give consent within 24 hours, noting that a decision may not be possible within this timeframe and there was no detail as to what must be included in a trench digging request. Accordingly, the applicant considered that such an arrangement would be better dealt with via a voluntary agreement that could provide the necessary caveats and details rather than a one size fits all approach within a DCO.
- 7.5.5. THC [\[REP6-157\]](#) maintained its position at the close of the examination, noting its view that the requested revised drafting was both necessary and narrow in scope, since it would only apply in instances where there is waterlogging and a threat of crop damage which would necessitate action being taken as quickly as reasonably possible. It further noted that the drafting would not require consent to be granted within 24 hours, only that the application for consent be determined within that time period. This determination could entail a refusal, including due to a lack of information provided to the undertaker.
- 7.5.6. THC have provided persuasive evidence [\[REP1-050\]](#) that waterlogging is a real and present risk following heavy rainfall and without the provision of trenches, damage to crops occurs within 2 to 3 days. Furthermore, the ExA notes that the applicant's Clarification Note: Climate Change, Increased Rainfall and Soil Impacts [\[REP3-055\]](#) acknowledges that once soils reach their water holding capacity, ponding can occur along with run-off or percolation to groundwater.
- 7.5.7. Therefore, the ExA considers that the revisions to the restrictive covenants as proposed by THC are necessary to ensure that a decision is made within 24 hours of a request to dig trenches to address waterlogging. The amended covenant would require the undertaker to make a decision on a request for trench digging within 24 hours. Approval could be withheld if the activity would cause damage to the authorised development or make it materially more difficult to access or maintain the authorised development.
- 7.5.8. Additional wording has been inserted into the ExA's final recommended draft DCO which reflects this position and is also set out in table 7 below.

7.6. PROTECTIVE PROVISIONS

7.6.1. Schedule 18 of the dDCO [\[AS-042\]](#) provides protective provisions (PPs) for SUs and their apparatus. The status of any PPs with SUs can be found in table 2-2 of the Schedule of Negotiations and Powers Sought [\[REP6-081\]](#) and the Applicant's final position on PPs can be found in section 13.3 of the Applicant's Closing Statements [\[REP6-121\]](#). The majority of PPs have either been agreed or, in the absence of comments being received from affected SUs, the applicant provides assurance that, where applicable, SUs can rely on standard provisions set out in schedule 18, parts 1 and 2. PPs as set out below have not been agreed:

- Part 11 (Protection for Perenco Gas (UK) Limited, Perenco North Sea Limited, Everard Energy Limited, Ithaca MA Limited, and RockRose (UKCS2) Limited (Perenco)). In its closing statement the applicant notes that it has reached agreement on the majority of the protective provisions with Perenco. There remains one point outstanding which is the radius of the communications corridors. The applicant has proposed a 50 metre (m) radius from the centre of the communications line. On the basis of an assessment to determine the spatial parameters of the Line of Sight network commissioned by the applicant, it considers a 50m radius to be sufficient and justified and provides assurance that Perenco is sufficiently protected such that any effects on third party infrastructure are negated or reduced to a level sufficient to enable the SoS to grant consent in accordance with paragraph 2.8.348 of NPS EN-3.
- Parts 13, 14 and 15 (Protection for Lincs Wind Farm Limited, Race Bank Wind Farm Limited and Dudgeon Extension Limited respectively). For each of these cases, the applicant notes that each of these SUs have maintained their representations due to the proximity of the proposed boundary of the offshore export cable corridor to the limits of the SUs project. The applicant recognises that PPs are not agreed, but affirms that, in each case, it is in active negotiations with the relevant IPs with a view to concluding a proximity agreement to govern the interaction of the proposed development with the relevant IP project. The applicant has provided PPs for the benefit of each IP in order to provide sufficient comfort that these projects are protected and co-existence can operate effectively whether proximity agreements are completed or not.

7.6.2. In general, the ExA is satisfied with the wording of schedule 18 and that adequate protection is provided to SUs such that there would be no serious detriment to the carrying out of their respective roles and functions.

7.6.3. With regard to the applicant's PPs for Perenco and as set out in chapter 3.7, the ExA has concluded, based on the evidence before it during the examination, that these would provide adequate protection to Perenco. However, the ExA has also found that, in light of the potential safety concerns raised by Perenco, the SoS may wish to consult further with the applicant and Perenco in order to establish the evidential basis for Perenco's preferred 100m communications corridors.

7.6.4. The ExA has suggested alternative drafting in chapter 3.7 to be inserted into the rDCO in the event that the SoS does not agree with the ExA's recommendation to include the applicant's PPs for Perenco.

7.6.5. With regard to the applicant's PPs for the protection of Lincs Wind Farm Limited, Race Bank Wind Farm Limited and Dudgeon Extension Limited, the ExA has reasoned in chapter 3.7 that, whilst it considers that the PPs proposed by the applicant would provide some assurance to the Ørsted IPs and Equinor IPs in the absence of proximity agreements that their interests would be protected, it is

unclear to the ExA whether this would be sufficient. In particular, the justification for the geographical extent of the applicant's proposed control zone was not clear at the close of the examination.

- 7.6.6. The ExA is mindful that the applicant [\[REP6-083\]](#) considers that proximity agreements will be finalised as soon as possible after the examination. Nevertheless, to ensure that this is the case and that appropriate control areas can be agreed between the parties, the ExA considers that amendments to parts 13, 14 and 15 of schedule 18 of the rDCO are necessary.
- 7.6.7. This amended drafting has been included in table 7 below and in the ExA's rDCO at appendix E of this Recommendation.

7.7. THE ExAs PROPOSED CHANGES TO THE dDCO

- 7.7.1. In light of the ExA's conclusions above, it does recommend a small number of changes to achieve correctness and consistency with other DCOs and to address issues which the ExA has identified during its examination. In the latter case, the ExA's reasoning and conclusions in support of its recommended changes to the DCO are set out in chapter 3. The ExA's recommended changes are summarised in table 7 below.

Table 7: DCO provisions recommended to be changed (recommended changes to drafting shown in red)

Provision	Recommendation	ExA's reasoning
Schedule 7, B	(c) prevent the carrying out of any excavations or works or agricultural practices to a depth greater than 0.75 metre from the surface of the land, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed, with consent for trench digging requests relating to waterlogging to be determined within 24 hours, if the proposed activity would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development) provided that (for the avoidance of doubt)—	To ensure that any waterlogging issues can be addressed in as timely a manner as possible.
Schedule 10 part 1, 2(i)	(i) the disposal of up to 21,389,090 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or	To provide further clarity

Provision	Recommendation	ExA's reasoning
	seabed preparation for foundation works, sandwave clearance and boulder clearance works at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS (some of which may alternatively be disposed under licence 2 (transmission)).	
Schedule 10 part 2, 11(5)	(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations, and sandwave clearance works is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.	To provide further clarity
Schedule 10 part 2, 21	No cable protection granted by this licence may be deployed within the IDRBNR SAC after the construction period has ended. Any cable protection to be installed outside of the IDRBNR SAC following completion of construction in locations where cable protection was not installed during construction must be deployed within 10 years of completion of construction, unless otherwise agreed by the MMO in writing.	To provide further clarity
Schedule 11 part 1, 2(i)	(i) the disposal of up to 18,381,000 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works, sandwave	To provide further clarity

Provision	Recommendation	ExA's reasoning
	clearance, boulder clearance works and excavation of trenchless technique exit pits at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS (some of which may alternatively be disposed under licence 1 (generation)).	
Schedule 11, part 2, 11(5)	(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations, sandwave clearance works and excavation of trenchless technique exit pits is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.	To provide further clarity
Schedule 11 part 2, 21	No cable protection granted by this licence may be deployed within the IDRBNR SAC after the construction period has ended. Any cable protection to be installed outside of the IDRBNR SAC following completion of construction in locations where cable protection was not installed during construction must be deployed within 10 years of completion of construction, unless otherwise agreed by the MMO in writing.	To provide further clarity
Schedule 12 part 1, 2(i)	(i) the disposal of up to 36,300 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works	To provide further clarity

Provision	Recommendation	ExA's reasoning
	at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS.	
Schedule 12, part 2, 8(5)	(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.	To provide further clarity
Schedule 13 part 1. 2(i)	(i) the disposal of up to 36,300 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS.	To provide further clarity
Schedule 13, part 2, 8(5)	(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.	To provide further clarity
Schedule 14 part 1, 2(i)	(i) the disposal of up to 36,300 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during	To provide further clarity

Provision	Recommendation	ExA's reasoning
	construction drilling or seabed preparation for foundation works at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS.	
Schedule 14, part 2, 8(5)	(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.	To provide further clarity
Schedule 15 part 1, 2(i)	(i) the disposal of up to 36,300 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS.	To provide further clarity
Schedule 15, part 2, 8(5)	(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.	To provide further clarity
Schedule 18, part 13(2) and (3)	Application ~~1. For the protection of Lincs as referred to in this Part of this~~	To secure a proximity agreement which includes

Provision	Recommendation	ExA's reasoning
	~~Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Lincs.~~ 1. The Following provisions shall apply for the protection of Lincs unless otherwise agreed in writing between the undertaker and Lincs. Interpretation 2. In this Part of this Schedule— “Lincs” means Lincs Wind Farm Limited, a company registered in Scotland with company number SC213646 and having its registered office at 13 Queens Road, Aberdeen, Scotland, AB15 4YL and any successor ~~statutory undertaker~~ with the benefit of the rights to operate the Lincs Offshore Wind Farm; ~~“Lincs control area” means the area within a distance of 250 metres extending outwards from the boundary for the Lincs Offshore Wind Farm as shown coloured green on the Lincs protective provisions plan;~~ “Lincs Offshore Wind Farm” means the 270 megawatts wind farm located 8 kilometres off the east coast of England, near Skegness in Lincolnshire; “Lincs Control Area” means an area, or areas, within the boundaries of Works Nos. 5, 7 and 8 described in Part 1 of Schedule 10 to the Order or any part of that work and which is within a fixed distance extending outwards from the boundary for the Lincs Offshore Windfarm as described on plans prepared by the undertaker;	an agreed, accurately defined control area

Provision	Recommendation	ExA's reasoning
	“Lincs Proximity Agreement” means an agreement setting out the technical and commercial terms governing the interaction between any works authorised by this Order forming part of the Lincs Control Area and the Lincs Offshore Wind Farm; and ~~“Lincs protective provisions plan” means the plan entitled the Lincs protective provisions plan and certified as the Lincs protective provisions plan for the purposes of this Part of this Schedule; and~~ ~~“plans” includes designs, drawings, timing schedules, procedures and risk assessments.~~ Control of works within the Lincs control area ~~3.—(1) The provisions of this Part of this Schedule have effect only if and to the extent that the undertaker carries out any part of the authorised project within the Lincs control area.~~ ~~(2) Before beginning to construct any works authorised by this Order within the Lincs control area, the undertaker must submit to Lincs plans of the intended work.~~ ~~(3) Any works within the Lincs control area must not be constructed except in accordance with such plans as may be approved in writing by Lincs.~~ ~~(4) Any approval by Lincs required under this paragraph must not be unreasonably withheld or delayed.~~ 3. Works within Works Nos. 5, 7 and 8 must not be commenced until:	

Provision	Recommendation	ExA's reasoning
	a. Plans of the Lincs Control Area have been submitted to and approved by the Secretary of State; and b. The undertaker has entered into the Lincs Proximity Agreement with Lincs unless otherwise agreed in writing by the undertaker and Lincs.	
Schedule 18, part 14(2) and (3)	Application ~~1. For the protection of Race Bank as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Race Bank.~~ 1. The Following provisions shall apply for the protection of Race Bank unless otherwise agreed in writing between the undertaker and Race Bank. Interpretation 2. In this Part of this Schedule— ~~“plans” includes designs, drawings, timing schedules, procedures and risk assessments;~~ ~~“Race Bank” means Race Bank Wind Farm Limited, a company registered in England and Wales with company number 05017828 and having its registered office at 5 Howick Place, London, England, SW1P 1WG and any successor statutory undertaker with the benefit of the rights to operate the Race Bank Offshore Wind Farm;~~	To secure a proximity agreement which includes an agreed, accurately defined control area

Provision	Recommendation	ExA's reasoning
	~~“Race Bank control area” means the area within a distance of 250 metres extending outwards from the boundary for the Race Bank Offshore Wind Farm as shown coloured green on the Race Bank protective provisions plan;~~ ~~“Race Bank Offshore Wind Farm” means the 573 megawatts wind farm located approximately 27 kilometres off the east coast of England, near Chapel St Leonards in Lincolnshire; and~~ ~~“Race Bank protective provisions plan” means the plan entitled the Race Bank protective provisions plan and certified as the Race Bank protective provisions plan for the purposes of this Part of this Schedule.~~ “Race Bank Control Area” means an area, or areas, within the boundaries of Works Nos. 5, 7 and 8 described in Part 1 of Schedule 10 to the Order or any part of that work and which is within a fixed distance extending outwards from the boundary for the Race Bank Offshore Windfarm as described on plans prepared by the undertaker; “Race Bank Proximity Agreement” means an agreement setting out the technical and commercial terms governing the interaction between any works authorised by this Order forming part of the Race Bank Control Area and the Race Bank Offshore Wind Farm; and “plans” includes designs, drawings, timing schedules,	

Provision	Recommendation	ExA's reasoning
	procedures and risk assessments Control of works within the Race Bank control area ~~3.~~ ~~—(1) The provisions of this Part of this Schedule have effect only if and to the extent that the undertaker carries out any part of the authorised project within the Race Bank control area.~~ ~~(2)~~ ~~Before beginning to construct any works authorised by this Order within the Race Bank control area, the undertaker must submit to Race Bank plans of the intended work.~~ ~~(3)~~ ~~Any works within the Race Bank control area must not be constructed except in accordance with such plans as may be approved in writing by Race Bank.~~ ~~(4)~~ ~~Any approval by Race Bank required under this paragraph must not be unreasonably withheld or delayed.~~ 3. Works within Works Nos. 5, 7 and 8 must not be commenced until: a. Plans of the Race Bank Control Area have been submitted to and approved by the Secretary of State; and b. The undertaker has entered into the Race Bank Proximity Agreement with Race Bank unless otherwise agreed in writing between the undertaker and Race Bank.	

Provision	Recommendation	ExA's reasoning
Schedule 18, part 15(2) and (3)	Application ~~For the protection of DEL as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and DEL.~~ 1. The Following provisions shall apply for the protection of DEL unless otherwise agreed in writing between the undertaker and DEL. Interpretation 2. In this Part of this Schedule— “Dudgeon Extension Project” means the Dudgeon Offshore Wind Farm Extension Project to be located 26.5km north of the Norfolk Coast; “DEL” means Dudgeon Extension Limited, a company registered in England and Wales with company number 12148301 and having its registered office at 1 Kingdom Street, London W2 6BD and any successor ~~statutory undertaker~~ with the benefit of the rights in relation to the Dudgeon Extension Project under the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024; ~~“DEL protective provisions plan” means the plan entitled the DEL protective provisions plan and certified as the DEL protective provisions plan for the purposes of this Part of this Schedule;~~ ~~“DEP control area” means the area within a distance of 250 metres extending outwards from the boundary for the Dudgeon Extension Project as shown~~	To secure a proximity agreement which includes an agreed, accurately defined control area

Provision	Recommendation	ExA's reasoning
	coloured green on the DEL protective provisions plan; and “DEP Control Area” means an area, or areas, within the boundaries of Works Nos. 5, 7 and 8 described in Part 1 of Schedule 10 to the Order or any part of that work and which is within a fixed distance extending outwards from the boundary for the Dudgeon Extension Project as described on plans prepared by the undertaker; “DEP Proximity Agreement” means an agreement setting out the technical and commercial terms governing the interaction between any works authorised by this Order forming part of the DEP Control Area and the Dudgeon Extension Project; and “plans” includes designs, drawings, timing schedules, procedures and risk assessments. Control of works within the DEP control area ~~3.—(1) The provisions of this Part of this Schedule have effect only if and to the extent that the undertaker carries out any part of the authorised project within the DEP control area.~~ ~~(2) Before beginning to construct any works authorised by this Order within the DEP control area, the undertaker must submit to DEL plans of the intended work.~~ ~~(3) Any works within the DEP control area must not be constructed except in accordance with such plans as~~	

Provision	Recommendation	ExA's reasoning
	may be approved in writing by DEL. (4) Any approval by DEL required under this paragraph must not be unreasonably withheld or delayed. 3. Works within Works Nos. 5, 7 and 8 must not be commenced until: a. Plans of the DEP Control Area have been submitted to and approved by the Secretary of State; and b. The undertaker has entered into the DEP Proximity Agreement with DEL unless otherwise agreed in writing by the undertaker and DEL.	
Schedule 21, Part 2	~~24.9 – Lines protective provisions plan – 1 – 4 April 2025~~ ~~24.10 – Race Bank protective provisions plan – 1 – 4 April 2025~~ ~~24.11 – DEL protective provisions plan – 1 – 4 April 2025~~	No longer required
Schedule 22, Part 1, 4(a)(iii)	An implementation timetable for the delivery of the artificial nesting structure that ensures that the structure is in place to allow for at least ~~two~~ three full kittiwake breeding seasons prior to operation of any turbine forming part of the authorised development. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 April in each year and ended on 30 September.	To provide an appropriate lead-in time period
Schedule 22, Part 1, 5	The undertaker must implement the measures set out in the Kittiwake CIMP approved by the	To provide an appropriate lead-in time period

Provision	Recommendation	ExA's reasoning
	Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and, where appropriate the MMO and/or the relevant planning authority. In particular, no operation of any turbine forming part of the authorised development may begin until ~~two~~ three full breeding seasons following the implementation of the measures as set out in the Kittiwake CIMP have elapsed. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 April in each year and ended on 30 September.	

7.8. CONCLUSIONS

7.8.1. The ExA has considered all iterations of the dDCO as set out above and the degree to which the applicant's final version has addressed matters arising during the examination.

7.8.2. The ExA is satisfied that the requirements set out in Version 11 of the dDCO provide mitigation for potential adverse effects identified in the applicant's Environmental Statement and sufficiently address the issues raised during the examination. No substantive amendments to the DCO are recommended and only a small number of changes as shown in table 7 above are included in the rDCO in appendix E of this report.

Taking all matters raised in this chapter and all matters relevant to the DCO raised in the remainder of this report fully into account, if the SoS is minded to make the DCO, it is recommended that the DCO should be made in the form set out in the rDCO, which can be located at appendix E of this report.

8. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

8.1. INTRODUCTION

- 8.1.1. This is an application where a National Policy Statement (NPS) has effect and accordingly falls to be determined under section (s) 104 of the Planning Act 2008 (PA2008). As required by s104(2), in making this Recommendation, the ExA has had full regard to the relevant NPSs. Namely, NPS EN-1, EN-3 and EN-5 as designated on 17 January 2024.
- 8.1.2. The examining authority (ExA) has had regard to all matters arising, together with identified relevant policies in the local impact reports (LIRs) from East Lindsey District Council (ELDC), Boston Borough Council (BBC) and South Holland District Council (SHDC) [\[REP1-052\]](#) and Lincolnshire County Council (LCC) [\[REP1-053\]](#) and in the UK Marine Policy Statement 2011 and the East Inshore and East Offshore Marine Plans 2014.
- 8.1.3. The ExA notes that the majority of issues raised by relevant local authorities identified in their respective LIRs were resolved by the close of the examination as detailed in statements of common ground between the applicant and ELDC, BBC and SHDC [\[REP5-136\]](#) and LCC [\[REP5-135\]](#), with outstanding concerns addressed in chapter 3 of this Recommendation.

8.2. CONSIDERATION OF FINDINGS

- 8.2.1. The ExA concludes that making the recommended Development Consent Order (rDCO) would generally be in accordance with NPS EN-1, NPS EN-3, NPS EN-5, the UK Marine Policy Statement and the East Inshore and East Offshore Marine Plans 2014. Where non-compliance has been identified (design and oil, gas and other offshore infrastructure), those matters have been attributed negative weight in the planning balance.
- 8.2.2. With regard to all other matters and representations received in the examination, there are no important and relevant matters that would individually or collectively lead to a different recommendation to that below.
- 8.2.3. The ExA concludes that the weight to be attached to the compelling need for the proposed development outweighs conflicts with policy and adverse effects as identified in chapter 3 and summarised in chapter 5 of this Recommendation.
- 8.2.4. In relation to the Conservation of Habitats and Species Regulations, 2017, (as amended) (Habitats Regulations), the ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.
- 8.2.5. The ExA's findings are that, for those European sites where an adverse effect on integrity (AEoI) cannot be ruled out (either for the project alone or in-combination), imperative reasons of over-riding public interest (IROPI) for the proposed development could be established and the proposed package of compensation measures is feasible, appropriate and has been adequately secured.

- 8.2.6. The ExA considers that there are several matters, as listed in appendix C and summarised at the end of this section of this Recommendation, where the SoS may wish to consult to obtain further information to enable them to undertake an appropriate assessment and to apply the derogation tests of the Habitats Regulations of alternative solutions, IROPI, and compensation in order to fulfil their duty under the requirements of the Habitats Regulations.
- 8.2.7. In relation to the application for Compulsory Acquisition (CA) and Temporary Possession (TP) powers within the rDCO, the ExA concludes that the public benefits associated with the proposed development would strongly outweigh the private loss which would be suffered by those whose land would be affected by the CA powers sought. The ExA is also satisfied that the TP powers sought are necessary to implement and maintain the proposed development and that adequate compensation provisions are in place in the rDCO.
- 8.2.8. The ExA considers that the applicant has explored all reasonable alternatives to CA, including modifications to the proposed development. The objections raised do not dissuade the ExA from the conclusion that there are no alternatives to the CA powers sought which would be preferred.
- 8.2.9. The ExA concludes that the proposed development for which the land and rights are sought would be in accordance with the tests in s122, 127, 131, 132 and 135 of the Planning Act 2008. The ExA is satisfied that adequate and secure funding would be available to enable CA within the statutory period following the Order being made.
- 8.2.10. The ExA has had regard to the provisions of the Human Rights Act 1998. These are qualified rights and the weight of national policy in favour of the proposed development and the public benefits arising from the proposed development means that the interference in the human rights of affected owners and occupiers would be proportionate and justified in the public interest.
- 8.2.11. The Public Sector Equality Duty (PSED) under the Equality Act 2010 is applicable to the ExA in the conduct of this examination and reporting and to the Secretary of State (SoS) in decision-making. In compliance with its duties under PSED, the ExA invited representation in a range of different methods: written format, online via video link, and in person at venues with adequate accessibility provisions. In that regard the ExA is satisfied it has fulfilled its duties under PSED.
- 8.2.12. The ExA considers that the proposed development is critical national priority (CNP) infrastructure but finds no reason for it to fall outside the 'general outweighing' set out in paragraph 3.3.63 of NPS EN-1. The ExA has considered CNP policy in accordance with paragraph 4.2.7 of NPS EN-1 and finds that it does not change its conclusions.
- 8.2.13. The ExA concludes that the Order be made subject to the changes as prescribed in the rDCO, which would overcome any final concerns with the proposed development.

8.3. CONCLUSION

- 8.3.1. For all of the above reasons, and in the light of the ExA's findings and conclusions on important and relevant matters set out in this Recommendation, the ExA recommends that the Secretary of State makes the Outer Dowsing Offshore Wind Farm DCO in the form proposed at Appendix E of this Recommendation.

Matters for the Secretary of State

8.3.2.

The ExA considers the evidence before the SoS at the close of the examination is sufficient for it to determine the application. However, as identified in section 3 and appendix C of this Recommendation, the ExA identifies several matters upon which the SoS may wish to seek further information. They are summarised below with signposting to the relevant section of this Recommendation for further information:

From the applicant:

- an updated Book of Reference (BoR), including parts 1 to 5, as these sections were absent from the final BoR submitted by the applicant [\[REP6-013\]](#) as considered in section 6.

From the applicant and relevant interested parties (IPs):

- Natural England's (NE) Appendix B4 to its deadline 6 submission [\[REP6-146\]](#) considers that the removal of the Galahad gas platform topsides and monopod, due to take place in 2026 may overlap with the construction of the proposed development. It notes that this is located directly within the array area and notes that this has not been considered within the cumulative impact assessment for marine physical processes, marine water and sediment quality or benthic ecology chapters. The ExA have not been provided with any evidence from NE or any other interested IP that this issue would alter the applicant's conclusions. The SoS may wish to seek the views of the applicant and relevant IPs on this matter before reaching its conclusion as considered in section 3.6.

From NE and the Marine Management Organisation (MMO):

- as set out in section C.8.8 of appendix C of this Recommendation, the ExA considers that there are several matters where the SoS may wish to consult to obtain further information to enable them to undertake an appropriate assessment and to apply the derogation tests of The Habitats Regulations of alternative solutions, IROPI, and compensation in order to fulfil their duty under the requirements of The Habitats Regulations. These matters may also be relevant from an EIA perspective and are as follows:
 - North Norfolk Coast Special Protection Area (SPA) and Ramsar site, Greater Wash SPA and The Wash SPA and Ramsar site - the updated wording contained in the applicant's final OLEMS submitted at deadline (D) 6 [\[REP6-070\]](#) and Schedule of Mitigation [\[REP6-074\]](#) (paragraphs C.4.50, C.4.69, and C.4.85)
 - IDRBNR Special Area of Conservation (SAC) - amendments to the SPCMP [\[REP6-076\]](#) and outline Cable Specification and Installation Plan [\[REP6-062\]](#) and final views from NE [\[REP6-147\]](#) (paragraphs C.4.206, C.4.264 and C.4.297)
 - IDRBNR SAC – NE's final views on the use of a fallpipe [\[REP6-155\]](#) (paragraph C.4.252)
 - The Wash and North Norfolk Coast SAC – securing parameters of the cable protection and use of a rock berm (paragraph C.4.306)
 - The Wash and North Norfolk Coast SAC, Humber Estuary SAC, Southern North Sea SAC, Berwickshire and North Northumberland Coast SAC – view on the applicant's final interim Population Consequences of Disturbance (iPCoD) Modelling Report [\[REP6-026\]](#) (paragraphs C.4.335, C.4.339, C.4.348 and C.4.352)
 - IDRBNR SAC - the applicant's final Without Prejudice Biogenic Reef Compensation Plan [\[REP6-038\]](#) and Without Prejudice Benthic

Compensation Evidence Base and Road Map [\[REP6-040\]](#) (paragraph C.7.65)

From the applicant and the MMO:

- as discussed in section 7, because discussions were still ongoing at the close of the examination in relation to schedules 10 -16 of the dDCO [\[AS-042\]](#), the ExA considers that it regrettably must suggest to the SoS that they seek further information from the MMO and the applicant on the status of the outstanding objections raised by the MMO.

From the Ministry of Defence (MoD):

- the ExA considers that R32 of the dDCO [\[AS-042\]](#) adequately secures the necessary mitigation for air defence primary surveillance radar and incorporates the changes requested by the MoD [\[REP5-177\]](#). However, for the avoidance of doubt, the SoS may wish to confirm this with the MoD as it did not comment on the updated dDCO [\[AS-042\]](#) as discussed in section 3.11.

From the applicant and Perenco UK Limited:

- the SoS may wish to consult with the applicant and Perenco UK Limited to determine if both parties are satisfied that there are no potential safety implications which could result from the 50m radius secured within schedule 18 of the rDCO as discussed in section 3.7.

From Lincolnshire County Council (LCC):

- to seek confirmation whether LCC considers the applicant's cumulative traffic impact assessment remains appropriate in light of any updates to the construction programmes of other NSIPs in the region after the close of the examination. As discussed in section 3.18, the ExA acknowledges LCC's concerns and notes the applicant's engagement through the Lincolnshire Energy Forum [\[REP5-135\]](#), but it considers that regional coordination of construction traffic remains a strategic issue. The SoS may wish to consult LCC on whether further measures are needed to manage cumulative traffic impacts.

APPENDICES

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APPENDIX A: EXAMINATION TIMELINE

ANNEX B: EVENTS IN PRE-EXAMINATION AND EXAMINATION

The table below lists the main events that occurred during the pre- Examination and Examination stages, and the Procedural Decisions taken by the Examining Authority (ExA).

Date	Event
22 May 2024	Unaccompanied Site Inspection 1
23 May 2024	Unaccompanied Site Inspection 1
3 July 2024	Issue by ExA of: Procedural Decision and Request for Information
31 July 2024	Issue by ExA of: Request for further Information
15 August 2024	Issue by ExA of: Procedural Decision
4 September 2024	Issue by ExA of: Notification of the Preliminary Meeting (Rule 6)
11 September 2024	Issue by ExA of: Response to an Additional Submission from the Applicant notifying of the intention to submit a change request
19 September 2024	Procedural Deadline For the receipt by the ExA of: - Responses to the Rule 6 letter relating to Examination procedure, including any submissions about the draft Examination Timetable and the use of virtual methods - Responses to Relevant Representations (RRs), as requested by ExA in its Procedural Decision (PD) letter on 31 July 2024 [PD-006] - Other responses (if applicable) to the ExA's PD letter of 31 July 2024 [PD-006] - Summaries of all RRs exceeding 1500 words - Submission of Pre-examination Progress Tracker - Applicant's submission of the CA and Land Rights Tracker

	• Applicant's submission of draft Statement of Commonality for Statements of Common Ground • Requests to be heard orally at the Preliminary Meeting and under which part of the agenda set out in Annex A • Requests by Parties to be heard orally at the Open Floor Hearing (OFH) to be held on Thursday 10 October 2024. • An indicative schedule showing when updated or new benthic and intertidal ecology, offshore and intertidal ornithology and HRA documents are likely to be submitted into the Examination by the Applicant, including their likely content and approximate size.
30 September 2024	Issue by ExA of: • Procedural Decision following submissions received from the Applicant at the Procedural Deadline on 19 September 2024
10 October 2024	Preliminary Meeting
10 October 2024	Open Floor Hearing (OFH1)
17 October 2024	Issue by the ExA of (Rule 8 letter): • Examination Timetable
24 October 2024	Deadline 1 For the receipt by the ExA of: • Comments on any updates to application documents submitted by the Applicant before or at the PM • Submission of comments on oral submissions made and written summaries of oral case put at the OFH held on 10 October 2024 • Requests from Affected Persons to be heard at any subsequent Compulsory Acquisition Hearing (CAH). Requests by Affected Persons (defined in section 59(4) of the Planning Act 2008) • Requests by Interested Parties to attend an Accompanied Site Inspection (ASI) • Suggested locations for the ASI including justification, and whether such locations can be seen from public land or require private access, for consideration by the ExA • Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA • Notification of wish to have future correspondence received electronically

	• Applicant's updated Book of Reference (BoR) and Schedule of Changes to the BoR (If required) in clean and tracked versions • Applicant's planning obligations, proximity and commercial side agreements tracking list and any draft s106 agreement (see Annex F of the ExA's Rule 6 letter [PD-009]) • Applicant's updated Schedule of Negotiations and Powers Sought in clean and tracked versions • Comments on the Applicant's Land Rights Tracker • Initial draft Statements of Common Ground • Comments on the Applicant's draft Statement of Commonality of Statements of Common Ground • Written Representations (WRs), as requested by ExA in its PD letter on 31 July 2024 [PD-006] • Summaries of any WRs that exceed 1500 words • Summaries of all RRs exceeding 1500 words (if not provided at the Pre-Examination Procedural Deadline) • Responses to RRs (if not provided at the Pre-Examination Procedural Deadline) • Local Impact Reports (LIRs) from local authorities (see Annex B) • Requests from Interested Parties to be heard at any subsequent Open Floor Hearing (OFH) • A revised version of the draft Development Consent Order (draft DCO) in clean and tracked versions • An updated Explanatory Memorandum in clean and tracked versions (if required) • Comments on any further information / submissions accepted by the ExA • Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules
24 October 2024	Receipt of applicant's Change Request 1
5 November 2024	Issue by ExA of: • Notification of Procedural Decision and Hearings • Response to Applicant's change notification
6 November 2024	Issue by ExA of:

	First Written Questions (ExQ1)
25 November 2024	Issue by ExA of: Notice of variation to the Examination Timetable
27 November 2024	Deadline 2 For the receipt by the ExA of: - Responses to ExQ1 - Written Representations (WRs), if not provided at Deadline 1 - Summaries of any WRs that exceed 1500 words, if not provided at Deadline 1 - Comments on the LIR(s) - Applicant to provide a draft itinerary for the ASI if required - Applicant's update to the Guide to the Application - Applicant's update to the Statements of Commonality of Statements of Common Ground - Applicant's update to the Land Rights Tracker - An updated version of the draft DCO in clean and tracked versions (if required as a result of ExQ1) - Schedule of changes to the draft DCO (if required) - An updated Explanatory Memorandum in clean and tracked versions (if required) - Applicant's updated BoR and Schedule of Changes to the BoR (If required) in clean and tracked versions - Responses to comments on RRs - Comments on any other submissions received at Deadline 1 - Initial report on the inter-relationship with other infrastructure projects (as described in Annex B) - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules
27 November 2024	Receipt of applicant's Change Request 2
3 December 2024	Compulsory Acquisition Hearing 1 (CAH1)
3 December 2024	Issue by ExA of: Response to applicant's change notification

4 December 2024	Issue Specific Hearing 1 on the draft Development Consent Order (ISH1)
4 December 2024	Issue Specific Hearing 2 on Offshore Environmental Matters (ISH2)
5 December 2024	Issue Specific Hearing 3 on Onshore Environmental Matters (ISH3)
11 December 2024	Issue by ExA of: • Response to applicant's change notification
13 December 2024	Deadline 3 For the receipt by the ExA of: • Post-hearing submissions including written summaries of oral case put at any of the hearings during the w/c 2 December 2024 • Comments on the Applicant's update to the draft DCO • Comments on other submissions received at Deadline 2 • Comments on the Applicant's update to the Land Rights Tracker • Applicant's update to the Land Rights Tracker • Comments on the update to the Statements of Commonality of Statements of Common Ground • Comments on draft ASI itinerary produced by the Applicant (if required) • Comments on WRs • Applicant to provide an updated Guide to the Application • An updated version of the draft DCO in clean and tracked versions (if required) • Schedule of changes to the draft DCO (if required) • An updated Explanatory Memorandum in clean and tracked versions (if required) • Applicant's updated BoR and Schedule of Changes to the BoR (If required) in clean and tracked versions • Updated Statements of Commonality of Statements of Common Ground • Applicant's updated Schedule of Negotiations and Powers Sought in clean and tracked versions • Applicant's 'Mid-Examination' Progress Tracker • Any further information requested by the ExA under Rule

	17 of the Examination Procedure Rules
13 December 2024	Receipt of applicant's Change Request 3
18 December 2024	Issue by ExA of: • S102a Request response
20 December 2024	Issue by ExA of: • Response to Applicant's change notification
13 January 2025	Issue by ExA of: • Further Written Questions (ExQ2)
14 January 2025	Issue by ExA of: • Notification of Hearings and Accompanied Site Inspection
3 February 2025	Deadline 4 For the receipt by the ExA of: • Responses to ExQ2 (if published) • Comments on the Applicant's update to the draft DCO • Comments on the Applicant's update to the Land Rights Tracker • Applicant's update to the draft DCO • Applicant's update to the Land Rights Tracker • Applicant's update to the Guide to the Application • Applicant's update to the Statements of Commonality of Statements of Common Ground • Comments on any other submissions received at Deadline 3 • Updated report on the inter-relationship with other infrastructure projects (as described in Annex B) • Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

3 February 2025	Receipt of applicant's Change Request 4
11 February 2025	Accompanied Site Inspection 1
11 February 2025	Issue by ExA of: • Rule 8 (3) and Rule 9
12 February 2025	Issue Specific Hearing 5 on Onshore Environmental Matters (ISH5)
13 February 2025	Issue Specific Hearing 6 on Offshore Environmental Matters (ISH6)
17 February 2025	Issue by ExA of: • The Report into the Implications for European Sites (RIES)
20 February 2025	Receipt of applicant's Change Request 5
19 February 2025	Issue by ExA of: • Notification of hearings
25 February 2025	Issue by ExA of: • Response to Applicant's change notification
26 February 2025	Deadline 4a For the receipt by the ExA of: • Post-hearing submissions including written summaries of oral case put at hearings during w/c 10 February 2025 • Comments on the applicant's latest update to the draft DCO [REP-008] • Comments on the Applicant's latest update to the Land Rights Tracker [REP4-092] • Comments on any other submissions received at Deadline 4
26 February 2025	Issue by ExA of: • Request for further information

28 February 2025	Issue by ExA of: • The ExA's preferred draft DCO, proposed schedule of changes, or commentary on the draft DCO
5 March 2025	Issue by ExA of: • Request for further information
13 March 2025	Deadline 5 For the receipt by the ExA of: • Comments on the Report into the Implications for European Sites (RIES) (if required) • Comments on ExA's commentary on, or schedule of changes to, the draft DCO (if required) • Completed, signed and dated Statements of Common Ground • Final Statement of Commonality of Statements of Common Ground • Comments on any other submissions received at Deadline 4a • Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules
19 March 2025	Compulsory Acquisition Hearing 2 (CAH2)
19 March 2025	Issue Specific Hearing 8 on Offshore Environmental Matters (ISH8)
21 March 2025	Issue by ExA of: • Request for further information
4 April 2025	Deadline 6 For the receipt by the ExA of: • Post-hearing submissions including written summaries of oral case put at hearings during w/c 18 March 2025 (if held) • Final Principal Areas of Disagreement Statements • IP's Closing Statement(s) • Post-hearing submissions including written submissions of oral cases (if applicable) • Applicant's Closing Statement(s) • Applicant's Close of Examination Progress Tracker

	• Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report • Final Explanatory Memorandum in clean and tracked versions • Final Book of Reference (BoR) and schedule of changes to BoR • Applicant's final Schedule of Negotiations and Powers Sought in clean and tracked versions • Completed s106 Agreements (if required) • Final Land Rights Tracker • Final planning obligations and commercial side agreements tracker • Final Guide to the Application • Final schedule of changes to the draft DCO (if required) • Comments on any other submissions received at Deadline 5 • Final report on the inter-relationship with other infrastructure projects (as described in Annex B) • Final preferred drafting of protective provisions, if not fully agreed between the applicant and respective parties before Deadline 6 • Any further information requested by the ExA under Rule 17 of the Examination Procedure Rule
10 April 2025	Close of Examination
11 April 2025	Issue by ExA of: • Notification of completion of the Examination under section 99 of the Planning Act 2008

APPENDIX B: LIST OF ABBREVIATIONS

APPENDIX B: LIST OF ABBREVIATIONS

Abbreviation or acronym	Reference
AADT	Average Annual Daily Traffic Flow
AAWT	Annual Average Weekday Traffic
AD	Air Defence
ADP	Anaerobic Digestion Plant
AEoI	Adverse Effects on Integrity
AEP	Annual Energy Production
AEZ	Archaeological Exclusion Zones
AIL	Abnormal Indivisible Load
AIS	Air Insulated Switchgear
ALARP	As Low As Reasonably Practicable
ALC	Agricultural Land Classification
AMSL	Above Mean Sea Level
ANCB	Appropriate Nature Conservation Body
ANO	Air Navigation Order
ANS	Artificial Nesting Structure(s)
AONB	Area of Outstanding Natural Beauty
AP	Affected Person
APFP Regs	The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (as amended)
AQMP	Air Quality Management Plan
AQTAG	Air Quality Technical Advisory Group
AR5	The United Nations Intergovernmental Panel on Climate Change (IPCC) Assessment Report 5
ASI	Accompanied Site Inspection
AtoN	Aids to Navigation
AW	Anglian Water
BBC	Boston Borough Council
BDMPS	Biologically Defined Minimum Population Scales
BESS	British Energy Security Strategy
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BoR	Book of Reference
BPM	Best Practicable Means
BS	British Standard
CA	Compulsory Acquisition
CAA	Civil Aviation Authority
CAH	Compulsory Acquisition Hearing
CAT	Commercial Air Transport
CBRA	Cable Burial Risk Assessment
CCUS	Carbon Capture Usage and Storage
CEA	Cumulative Effects Assessment
CI	Confidence Interval
CIC	Cable Installation Compound
CIMP	Compensation Implementation and Monitoring Plan
CMS	Construction Method Statement
CNP	Critical National Priority

CO ₂	Carbon Dioxide
CoCP	Code of Construction Practice
COLREGs	Convention on the International Regulations for Preventing Collisions at Sea 1972
CRM	Collision Risk Modelling
CRTN	Calculation of Road Traffic Noise
CSIP	Cable Specification and Installation Plan
CTMP	Construction Traffic Management Plan
D	Deadline
DAD	Design Approach Document
DAS	Digital Aerial Survey
dB	Decibel
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DCLG	Department for Communities and Local Government
DEFRA	Department for Environment, Food and Rural Affairs
DEL	Dudgeon Extension Limited
DEP	Dudgeon Extension Project
DESNZ	Department for Energy Security and Net Zero
DFDS	Det Forenede Dampskids-Selskab
DfT	Department for Transport
DIO	Defence Infrastructure Organisation
DLUHC	Department for Levelling Up, Housing and Communities
DML	Deemed Marine Licence
DMRB	Design Manual for Roads and Bridges
DPS	Design Principles Statement
DRP	Design Review Panel
EA	Environment Agency
EA2010	Equalities Act 2010
ECC	Export Cable Corridor
ECHR	European Convention on Human Rights
ECOW	Ecological Clerk of Works
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended)
EIEOMP	East Inshore and East Offshore Marine Plans
EIFCA	Eastern Inshore Fisheries and Conservation Authority
EL	Examination Library
ELDC	East Lindsey District Council
EM	Explanatory Memorandum
EMF	Electromagnetic Field
EMP	Ecological Management Plan
ES	Environmental Statement
ETG	Expert Topic Group
EU	European Union
ExA	Examining Authority
ExQ1/2	The ExA's first or second rounds of written questions
FFC SPA	Flamborough and Filey Coast Special Protection Area
FLCP	Fisheries Liaison and Coexistence Plan

FLL	Functionally Linked Land
FLOWW	Fishing Liaison with Offshore Wind and Wet Renewables
FRA	Flood Risk Assessment
FS	Funding Statement
FSA	Formal Safety Assessment
G2W	Grimsby to Walpole
GBS	Gravity-Based Structure
GCN	Great Crested Newt
gCO ₂ eq/kWh	Grams of carbon dioxide equivalent per kilowatt-hour
GEART	Guidelines for Environmental Assessment of Road Traffic
GEATM	Guidelines for Environmental Assessment of Traffic and Movements
GHG	Greenhouse Gas
GIS	Gas Insulated Switchgear
GJ	Gigajoule
GJ/t	Gigajoule/tonne
GLVIA3	Guidelines for Landscape and Visual Impact Assessment Third Edition
GVA	Gross Value Added
GW	Gigawatt
GWh	Gigawatt Hours
GWP	Global Warming Potential
GWRA	Groundwater Risk Assessment
ha	Hectare(s)
HDD	Horizontal Directional Drilling
HE	Historic England
HGV	Heavy Goods Vehicle
HIA	Hydrogeological Impact Appraisal
HLC	Historic Landscape Character
HMRI	Helicopter Main Routing Indicator
HoTs	Heads of Terms
HPAI	Highly Pathogenic Avian Influenza
HRA	Habitats Regulations Assessment
HS	Heritage Statement
IALA	International Association of Lighthouse Authorities
IAQM	Institute of Air Quality Management
IAP1	Initial Assessment of Principal Issues
ICNIRP	International Commission for Non-Ionizing Radiation Protection
IDB	Internal Drainage Board
IDRBNR	Inner Dowsing Race Bank North Ridge
IEMA	Institute of Environmental Management and Assessment
IHLS	International Herring Larvae Survey
IMO	International Maritime Organization
INNS	Invasive non-native species
IOF	Important Ornithological Feature
IP	Interested Party
IPCC	Intergovernmental Panel on Climate Change
iPCoD	interim Population Consequences of Disturbance
IPMP	In-Principle Monitoring Plan

IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
ISO	International Organization for Standardization
JNCC	Joint Nature Conservation Committee
KCIIIECP	King Charles III England Coast Path
kJ	Kilojoules
km	Kilometres
KSCP	Kittiwake Strategic Compensation Plan
Kv	Kilovolt
LAT	Lowest Astronomical Tide
LBBG	Lesser black-backed gull
LCA	Life Cycle Assessment
LCC	Lincolnshire County Council
LEA	Local Economic Area
LEP	Local Economic Partnership
LIR	Local Impact Report
LLCA	Local Landscape Character Area
LLFA	Lead Local Flood Authority
LMP	Landscape Management Plan
LOAEL	Lowest Observed Adverse Effect Level
LoNI	Letter of No Impediment
LOS	Line of Sight
LPA	Local Planning Authority
LRT	Land Rights Tracker
LSE	Likely Significant Effects
LTRA	Local Tourism and Recreation Area
LVIA	Landscape and Visual Impacts Assessment
m	Metres
MCA	Maritime and Coastguard Agency
MCAA2009	Marine and Coastal Access Act 2009
MDE	Maximum Design Envelope
MDS	Maximum Design Scenario
MGN	Marine Guidance Note
MHCLG	Ministry for Levelling Up, Housing and Communities
MHWS	Mean High Water Springs
MLWS	Mean Low Water Springs
MMMP	Marine Mammal Mitigation Protocol
MMO	Marine Management Organisation
MMObs	Marine Mammal Observer
MoD	Ministry of Defence
MPCP	Marine Pollution Contingency Plan
MPS	Marine Policy Statement
MRF	Marine Recovery Fund
MU	Management Unit
MW	Megawatt
MW&SQ	Marine Water and Sediment Quality
NAF	Nocturnal activity factors
NAS	Noise abatement systems
NATS	NATS en Route LTD

NCA	National Character Area
NCV	Net Calorific Value
NE	Natural England
NERC	Natural Environment and Rural Communities Act 2006
NFFO	National Federation of Fishermen's Organisations
NGET	National Grid Electricity Transmission
NGSS	National Grid Substation
NGT	National Gas Transmission
NIC	National Infrastructure Commission
NIS	National Infrastructure Strategy
NNG	Night Noise Guidance
nm	Nautical mile
NPA 2017	The Neighbourhood Planning Act 2017
NOEL	No Observed Effect Level
NOTAM	Notice to Airmen
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPSE	Noise Policy Statement for England (DEFRA 2010)
NPS EN-1	Overarching National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure
NR	Network Rail
NRA	Navigational Risk Assessment
NSIP	Nationally Significant Infrastructure Project
NSN	National Site Network
NSRs	Noise-Sensitive Receptors
NT	National Trust
NVMP	Noise and Vibration Management Plan
OEP	Office for Environmental Protection
OFH	Open Floor Hearing
OLEMS	Outline Landscape and Ecological Management Strategy
OnSS	Onshore Substation
ORBA	Offshore Restricted Build Area
ORCP	Offshore Reactive Compensation Platform
OWF	Offshore Wind Farm
PA2008	Planning Act 2008 (as amended)
PADSS	Principal Areas of Disagreement Summary Statement
PAM	Passive Acoustic Monitoring
PAMP	Public Access Management Plan
PEIR	Preliminary Environmental Information Report
PEMP	Project Environmental Management Plan
PIA	Personal Injury Accident
PINS	Planning Inspectorate
PM	Preliminary Meeting
PMP	Peat Management Plan
PM10	Particulate Matter of 10 micro-meters or less in diameter
PP	Protective Provision
PPEIRP	Pollution Prevention and Emergency Incident Response Plan
PPG	Planning Practice Guidance

PPV	Peak Particle Velocity
PRoW	Public Right of Way
PSED	Public Sector Equality Duty
PSR	Primary Surveillance Radar
PTS	Permanent Threshold Shift
PVA	Population Viability Analysis
R	Requirement
RAF	Royal Air Force
RCS	Reactive Compensation Substations
rDCO	The ExA's recommended Development Consent Order
RIAA	Report to Inform Appropriate Assessment
RIES	Report on the Implications for European Sites
RLB	Red Line Boundary (aka Order Limits)
RLoS	Radar Line of Sight
RR	Relevant Representation(s)
RRH	Remote Radar Head
RSPB	Royal Society for the Protection of Birds
s106	Section 106 agreement under the Town and Country Planning Act 1990 (as amended)
SAC	Special Area of Conservation
SAR	Search and Rescue
SCANS	Small Cetaceans in European Atlantic waters and the North Sea
SELss	Single Strike Sound Exposure Levels
SF ₆	Sulphur Hexafluoride
SHDC	South Holland District Council
SIP	Site Integrity Plan
SLVIA	Seascape Landscape and Visual Impact Assessment
SMP	Soil Management Plan
SNCB	Statutory Nature Conservation Body
SNS SAC	Southern North Sea Special Area of Conservation
SOAEL	Significant Observed Adverse Effect Level
SoCG(s)	Statement(s) of Common Ground
SOLAS	Safety Of Life At Sea
SoR	Statement of Reasons
SoS	Secretary of State
SoSHCLG	Secretary of State for Housing, Communities and Local Government
SPA	Special Protection Area
SPCPMP	Scour Protection and Cable Protection Management Plan
SPL	Sound Pressure Level
SPP	Special Parliamentary Procedure
SSSI	Site of Special Scientific Interest
SU(s)	Statutory Undertakers
TA	Transport Assessment
TC	Trenchless Cut
TCC	Temporary Construction Compound
TCE	The King's Most Excellent Majesty in Right of His Crown
tCO _{2e}	Tonnes of Carbon Dioxide Equivalent
TH	Trinity House

THC	T.H. Clements
TJ	Terajoule
TMZ	Transponder Mandatory Zone
TP	Temporary Possession
TSS	Traffic Separation Scheme
TTS	Temporary Threshold Shift
TWA	Transport and Works Act 1992
UK	United Kingdom
UKCoS	United Kingdom Chamber of Shipping
UNCLOS	United Nations Convention on the Law of the Sea
USI	Unaccompanied Site Inspection
UXO	Unexploded Ordnance
VMC	Visual Meteorological Conditions
VMP	Vessel Management Plan
VP	Viewpoint
VSRs	Vibration Sensitive Receptors
WAM	Wide Area Multilateral
WCH	Walking, Cycling, or Horse-riding
WCS	Worst Case Scenario
WFD	Water Framework Directive
WHO	World Health Organisation
WMS	Written Ministerial Statement
WQ	Written Question
WQM&MP	Water Quality Management and Mitigation Plan
WR	Written Representation
WSI	Written Scheme of Investigation
WTG	Wind Turbine Generator
ZOI	Zone of Influence
ZTV	Zone of Theoretical Visibility

APPENDIX C: HABITATS REGULATIONS ASSESSMENT

APPENDIX C: FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

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C.1 INTRODUCTION

- C.1.1 This appendix sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security and Net Zero (SoS), as the competent authority, in performing their duties under The Conservation of Habitats and Species Regulations 2017 and The Conservation of Offshore Marine Habitats and Species Regulations 39
- C.1.2 This appendix is structured as follows:
- Section C2: Findings in relation to Likely Significant Effects
 - Section C3: Conservation Objectives for sites and features
 - Section C4: Findings in relation to Adverse Effects on Integrity (AEoI)
 - Section C5: Consideration of alternative solutions
 - Section C6: Imperative Reasons of Overriding Public Interest (IROPI)
 - Section C7: Compensatory measures
 - Section C8: HRA conclusions
- C.1.3 Under Regulation 63 of the Habitats Regulations and Regulation 28 of the Offshore Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test (Stage 1) is to identify the need for an 'appropriate assessment' (AA) to be undertaken by the Competent Authority and the activities, sites or plans and projects to be included for further consideration in the AA (Stage 2).
- C.1.4 In accordance with the precautionary principle embedded in The Habitats Regulations, consent for the proposed development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s) and no reasonable scientific doubt remains (CJEU Case C-127/02 Waddenzee 7 September 2004).
- C.1.5 For the purpose of this Recommendation, in line with The Habitats Regulations and relevant Government policy, the term 'European sites' includes Special Areas of Conservation (SACs), candidate SACs, proposed SACs, Special Protection Areas (SPAs), potential SPAs, listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites.
- C.1.6 Policy considerations and the legal obligations under The Habitats Regulations are described in Appendix C of this Recommendation.
- C.1.7 The ExA has been mindful throughout the examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the competent authority. We have sought evidence from the applicant and the relevant Interested Parties (IPs), including Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), through written questions and Issue Specific Hearings (ISHs).
- RIES and Consultation**
- C.1.8 The ExA produced a Report on the Implications for European Sites (RIES) [\[PD-022\]](#) which compiled, documented, and signposted HRA-relevant information provided in the DCO application and examination representations up to deadline 4 (D4) (3 February 2025). The RIES was issued to set out ExA understanding on HRA-

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relevant information and the position of the IPs in relation to the effects of the proposed development on European sites at that point in time. The ExA also posed questions within the RIES [\[PD-022\]](#) to the applicant and IPs to develop its understanding of HRA matters.

- C.1.9 Consultation on the RIES took place between 17 February 2025 and 13 March 2025. Comments were received from the applicant [\[REP5-149\]](#), Royal Society for the Protection of Birds (RSPB) [\[REP5-160\]](#), Marine Management Organisation (MMO) [\[REP5-174\]](#) and NE [\[REP5-172\]](#) at D5 (13 March 2025). Responses to these comments on the RIES were then submitted by the applicant [\[REP6-111\]](#) at D6 (4 April 2025). These comments have been taken into account in the drafting of this chapter.
- C.1.10 It is noted that at the point of issue of the RIES, several HRA matters remained outstanding. Subsequent examination submissions at D5 and D6 included HRA-relevant information. As a result of the timing of these submissions there was limited opportunity in some cases for IPs to respond fully by the close of examination.
- C.1.11 NE advised [\[REP5-172\]](#) that it does not consider consultation on the RIES adequately discharges the statutory requirement to consult NE on Appropriate Assessments, as the RIES draws no Adverse Effect on Integrity (AEoI) conclusions. NE also noted that as the RIES only includes information up to D4 of the examination, its response [\[REP5-172\]](#) therefore included any updated advice it had provided to the applicant after the publication of the RIES. NE recommends that the RIES is updated at the end of examinations before issue to the Secretary of State.
- C.1.12 In accordance with the Inspectorate's NSIP Advice Page: Advice on Habitats Regulations Assessments, the RIES is not revised following consultation and as such, the ExA did not republish a revised version. This chapter considers all HRA representations made by IPs during the Examination, including those made after consultation on the RIES.
- C.1.13 Given the amount of HRA information submitted by both the applicant and NE following publication of the RIES, the SoS may wish to undertake further consultation to fulfil the duties under Regulation 63(3) of the Habitats Regulations and Regulation 28(4) of the Offshore Habitats Regulations.

Proposed Development Description and HRA Implications

- C.1.14 The proposed development is described in chapter 1 of this Recommendation.
- C.1.15 The spatial relationship between the Order Limits of the proposed development and European sites is shown in figures 5.1 to 5.4 of the HRA Screening Report [\[REP4-037\]](#) and figures 9.1 to 9.11 in the applicant's Report to Inform Appropriate Assessment (RIAA) [\[REP4-030\]](#).
- C.1.16 The proposed development is not directly connected with, or necessary to, the management of a European site. Therefore, the Secretary of State (SoS) must make an 'appropriate assessment' of the implications of the proposed development on potentially affected European sites in light of their Conservation Objectives.
- C.1.17 The applicant's assessment of effects is presented in the following application documents:
- Habitats Regulations Assessment Screening Report [\[APP-239\]](#) [\[REP4-037\]](#)

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- Report to Inform Appropriate Assessment (RIAA) [\[APP-235\]](#) [\[AS1-095\]](#) [\[REP4-030\]](#) [\[REP5-101\]](#) [\[REP6-028\]](#)
- Report to Inform Appropriate Assessment Appendix 1: Screening Matrices [\[APP-240\]](#) [\[AS1-101\]](#) [\[REP4-039\]](#)
- Report to Inform Appropriate Assessment Integrity Matrices [\[APP-241\]](#) [\[AS1-097\]](#) [\[REP4-041\]](#)

C.1.18 The applicant also supplied a report on its Evidence Plan Process (EPP) associated with the Development Consent Order (DCO) application as [\[APP-149\]](#). Details of EPP consultation are also contained in a further appendix to its consultation report [\[APP-052\]](#). This documents the pre-application consultation undertaken with the ANCB and other relevant consultation bodies.

C.1.19 The applicant submitted numerous iterations of its HRA reports during the course of the examination, including submissions in relation to its derogations case and compensation measures at D5 and D6 that included HRA-relevant information.

C.1.20 An overview of the key documents submitted during pre-examination and examination by the applicant in relation to its derogations case and compensatory measures is provided in a separate annex to this appendix.

Change requests

C.1.21 During the examination, the ExA accepted several change requests submitted by the applicant as described in Chapter 1 of this Recommendation.

C.1.22 The applicant [\[PD1-091\]](#) considered that no new sites or impact-pathways would be introduced into the assessment as a result of any of the applicant's change requests. Following clarification sought by the ExA in the RIES, RIES Q.3 [\[PD-022\]](#), NE advised that it shares this view [\[REP5-172\]](#).

C.1.23 Change requests [\[REP1-039\]](#) [\[REP2-065\]](#) and [\[REP4-124\]](#) had implications for the HRA conclusions as follows:

- Change request [\[REP1-039\]](#) included the removal of the northern option for the offshore export cable corridor, due to the area of seabed no longer being available to the applicant with the extension of an agreement by the Crown Estate for a marine licence to permit minerals extraction within the area. This change request removed a mitigation option to avoid impacts on the Inner Dowsing Race Bank and North Ridge SAC (noted in NE's response to the RIES at D5 [\[REP5-172\]](#)) and is discussed further in section C4 below.
- Change request [\[REP2-065\]](#) introduced the Offshore Restricted Build Area (ORBA) and proposed a reduction in height to the Offshore Reactive Compensation Platform(s) (ORCP). These were measures introduced to provide mitigation for the identified effects from the presence of the wind turbine generators (WTGs) on auk qualifying features (guillemot and razorbill) of the Flamborough and Filey Coast SPA (FFC SPA) and the red-throated diver qualifying feature of The Greater Wash SPA. HRA-relevant documentation to support the change request was supplied by the applicant at an earlier point in the examination as [\[PD1-091\]](#) and [\[PD1-092\]](#) in response to the ExA's requests for information [\[PD-006\]](#).
- Change request [\[REP4-124\]](#) reduced the amount of 'lead in' time for the artificial nesting structures to be in place prior to the operation of the proposed

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development and also reduced the Maximum Design Scenario of the ORCP to mitigate for potential AEol to the red-throated diver qualifying feature of the Greater Wash SPA.

- C.1.24 Following a request from the ExA in ExQ2, HRA 1.1 [PD-020] and NE [REP1-057] and in light of the applicant's updated bird survey information and ORBA change request, the applicant updated all of its HRA documents (HRA Screening, [REP4-037]; RIAA, [REP4-030] and screening and integrity matrices [REP4-039], [REP4-041] respectively) to provide a consolidated set of documents for the HRA with the acceptance of change request [REP2-065] (hereafter referred to as 'the ORBA change request').
- C.1.25 The implications of these changes relate to the applicant's conclusions of AEol and are therefore discussed further within the relevant section C4 below.
- C.1.26 The applicant identified likely significant effects (LSE) on non-UK European sites in European Economic Area (EEA) States in its HRA Screening Report [REP4-037] and within [OD-002]. Only UK European sites are addressed in this appendix.
- C.1.27 No representations have been received on transboundary matters in relation to non-UK European sites in EEA states during the course of the examination and the ExA is satisfied on the basis of the information in relation to transboundary matters that no LSE will arise as a result of the proposed development alone and in-combination.

Summary of HRA Matters Considered During the Examination

- C.1.28 The applicant's RIAA assessed potential adverse effects on European sites with benthic ecology qualifying features (Annex I reef and sandbank), Annex II marine mammals, and those with offshore and onshore ornithological qualifying features. The examination therefore focussed on these matters.
- C.1.29 The key issues raised by NE in respect of benthic ecology were the evidence base for presence of Annex I *Sabellaria spinulosa* and the conclusions in relation to impacts from cable protection, scour and secondary scour on relevant qualifying features.
- C.1.30 For marine mammals, the examination focussed on matters relating to the applicant's modelling approach and proposed mitigation measures to avoid adverse effects on integrity, including use of noise abatement systems and Site Integrity Plans.
- C.1.31 In respect of offshore ornithology, NE and the RSPB raised concerns with the methods used to calculate and describe the impacts to seabird qualifying features at relevant sites, including baseline data collection, modelling approaches and application of the precautionary approach. Several iterations of the modelling and assessments following NE's advised approaches were submitted during the examination as a result. The overarching methodological issues are presented in section C4 below, but other matters that are relevant to both the EIA and HRA assessments are covered in chapter 3.9, Marine and intertidal Ornithology, of this Recommendation (including the implications of Highly Pathogenic Avian Influenza (HPAI)).
- C.1.32 The effects arising from the presence of the array and the ORCP were also disputed and resulted in two change requests described in paragraph C.1.23 above.

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- C.1.33 In respect of onshore ornithology, the examination focussed on the effects on functionally linked land (FLL) for bird qualifying features and the applicant's proposals for mitigation to those features.
- C.1.34 The approach to compensatory measures and the approach to determining the quantum of 'without prejudice' compensatory measures proposed by the applicant were also disputed. Concerns were also raised principally by the RSPB and NE over the timing, location, feasibility and deliverability of 'without prejudice' compensatory measures and the applicant's proposal to reduce the lead-in time for the provision of artificial nesting structures as compensatory measures for kittiwake.
- C.1.35 The position reached by D4 in relation to these matters was discussed in the RIES [\[PD-022\]](#). The sections below discuss the position reached after the publication of the RIES up to the final deadline (D6) and the close of the examination as appropriate.

C.2 STAGE 1: FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS (LSE)

- C.2.1 Under Regulation 63 of The Habitats Regulations and Regulation 28 of The Offshore Habitats Regulations, the competent authority must consider whether a development will have Likely Significant Effects (LSE) on a European site, either alone or in-combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' (AA) and the activities, sites or plans and projects to be included for further consideration in the AA.

The applicant's assessment

- C.2.2 The European sites and qualifying features that were considered in the applicant's assessment of LSE are presented in table 5.2 of the applicant's screening report [\[REP4-037\]](#), which was updated at D4 to reflect changes made by the applicant during the examination. The applicant's HRA Screening Report also sets out the methodology applied to determining what would constitute a 'significant effect' [\[REP4-037\]](#).
- C.2.3 Section 5 of the applicant's HRA Screening Report [\[APP-239\]](#) [\[REP4-037\]](#) identifies the European sites within the UK NSN for inclusion within the assessment.
- C.2.4 The applicant identified sites potentially subject to LSE by considering a maximum range of effects and where a potential for connectivity with the proposed development was also present. Sections 4.2 (subtidal and intertidal benthic ecology), 4.3 (marine mammals), 4.4 (offshore and intertidal ornithology), 4.5 (migratory fish); and 4.6 (onshore ecology and ornithology) in [\[REP4-037\]](#) summarise the assessment of effects on each receptor group for LSE.
- C.2.5 The HRA Screening Report [\[REP4-037\]](#) goes on to identify the potential impact-pathways from the proposed development during construction, operation and maintenance and decommissioning. These are identified in RIES table 2.1 [\[PD-022\]](#) by receptor group. No additional impact-pathways were identified for inclusion in the assessment during the examination, but the following section sets out matters of clarification that were raised by the ExA and IPs in relation to LSE.

LSE matters raised during the examination

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- C.2.6 The following matters were raised during the examination by other IPs and/or questioned by the ExA in relation to the applicant's screening for LSE. These are summarised below:
- LSE on Dogger Bank Special Area of Conservation (SAC) [\[RR-036\]](#)
 - potential omission of the River Derwent SAC RIES Q.1 [\[PD-022\]](#)
 - the nature of the disturbance/displacement impact-pathway to the red-throated diver and common scoter qualifying features of the Greater Wash Special Protection Area (SPA) RIES Q.2 [\[PD-022\]](#)
 - separation of the physical disturbance impact-pathway from physical habitat loss at Inner Dowsing Race Bank and North Ridge (IDRBNR) SAC [\[RR-045\]](#)
 - inclusion of barrier effects from piling in the underwater noise assessment on the harbour seal qualifying feature of the Wash and North Norfolk Coast (WNNC) SAC from the ORCP [\[RR-045\]](#)
 - the implications to the assessment of the introduction of the ORBA change request RIES Q.3 [\[PD-022\]](#)
- C.2.7 In its RR [\[RR-036\]](#), Lincolnshire Wildlife Trust (LWT) raised concerns in relation to cumulative effects to Dogger Bank SAC (nursery and spawning grounds for sandeel, herring and other fish species). The applicant clarified [\[PD1-071\]](#) that this site had been considered prior to assessment of LSE but screened out on the basis of the distance to the proposed development. No further matters were raised in relation to this site during the course of the examination.
- C.2.8 In its response to ISH5 and ISH6 action points [\[REP4a-120\]](#) and in its response to the RIES [\[REP5-149\]](#), the applicant confirmed that the inclusion of the River Derwent SAC in [\[APP-239\]](#) was an error and provided reasoning to support the lack of a pathway to LSE in relation to this site. No other representations were received on this matter during the examination.
- C.2.9 NE [\[RR-045\]](#) raised concerns that the disturbance and displacement impacts from the presence of the ORCP had not been adequately considered for the lifetime of the proposed development. The applicant's response to the RIES [\[REP6-111\]](#) confirmed that the disturbance/displacement impact pathway affecting red-throated diver had been screened into the assessment and considered in its RIAA [\[REP4-030\]](#). NE's response [\[REP5-172\]](#) confirmed it was satisfied that this impact-pathway had been included, noting, however, further matters in relation to securing a seasonal restriction during construction in order to avoid AEoI. This is therefore discussed further in section C4 of this appendix dealing with AEoI matters.
- C.2.10 In relation to the concerns raised by NE [\[RR-045\]](#) on barrier effects and potential disturbance effects on The WNNC SAC, the applicant's response [\[REP5-149\]](#) clarified that this pathway had been included in the assessment of noise related disturbance impacts from piling, highlighting that NE was satisfied [\[REP3-048\]](#) with the conclusions in the applicant's RIAA. This agreement was also demonstrated by NE's response to the RIES [\[REP5-172\]](#).

LSE from the proposed development alone

- C.2.11 The applicant identified potential impacts of the proposed development alone considered to have the potential to result in likely significant effects (LSE) in the following tables of the HRA Screening Report [\[REP4-037\]](#)¹:

¹ Noting that some sites appear in more than one receptor group category

- Table 5.2: Subtidal and Intertidal Benthic Ecology (offshore and coastal) (7 sites);
- Table 5.4: Annex II marine mammals (17 sites)
- Table 5.6: Offshore and intertidal ornithological qualifying features (167 sites)
- Table 5.8: Annex II migratory fish species (1 site)
- Table 5.10: Onshore ecology (10 sites)

C.2.12 The impact-pathways considered by the applicant to have the potential to result in LSE are:

Benthic subtidal and intertidal ecology receptor group:

- Physical habitat loss (all phases)
- Suspended sediment/deposition (all phases)
- Indirect pollution (all phases)
- Accidental pollution (all phases)
- Invasive Non-Native Species (INNS) (all phases)
- Changes to physical processes (all phases)
- Electro-magnetic fields (EMF) (all phases)

Marine mammal receptor group:

- Underwater noise (all phases)
- Vessel disturbance (all phases)
- Changes to prey (all phases)
- Vessel collision risk (all phases)
- Disturbance at haul out sites (all phases)

Migratory fish receptor group:

- Underwater noise (all phases)

Onshore ecology and ornithology receptor group:

- Loss or damage to Annex I habitats (construction and decommissioning)
- Pollution from site run-off affecting habitat quality (construction and decommissioning)
- Damage to habitats from operation and maintenance activities (operation phase only)
- Loss of estuary habitats (dune systems and dune slacks) (construction)
- Disturbance to species (construction)
- Reduction of habitat quality (construction and decommissioning)
- Pollution from site run-off (construction and decommissioning)
- Loss of foraging, roosting and nesting habitat within the site and surrounding area (construction)
- Disturbance of birds within and outside the site (construction and decommissioning)
- Pollution from site run-off affecting habitat quality and resources (construction and decommissioning only)
- Damage to habitats and disturbance/ displacement from vehicles and workers (operation and maintenance only)
- Loss of foraging, roosting and nesting habitat for birds (construction)
- Disturbance/displacement of birds inside and outside sites (construction and decommissioning)
- Pollution from site run-off affecting habitat quality and resources (construction and decommissioning)

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- Disturbance/displacement of birds arising from vehicles and workers accessing onshore structures for maintenance (operation)
- Loss of or decline in populations of scarce invertebrates and plants (construction)
- Indirect effects through effects on habitats and prey species (construction and decommissioning)
- Direct disturbance and displacement in the array area +4km buffer due to presence of turbines (operation)
- Loss of foraging and nesting habitat inside and outside the SPA (construction)
- Barrier and collision risk (migratory bird species (construction)

Offshore and intertidal ornithology receptor group:

- Collision risk due to presence of turbines (operation)
- Disturbance and displacement (all phases)
- Direct disturbance and displacement due to work activity and vessel movements in both the offshore and intertidal zones (construction and decommissioning)

C.2.13 The European sites and qualifying features for which the applicant concluded no LSE are listed in the HRA Report Screening Matrices [\[REP4-039\]](#), within the applicant's Habitats Regulations Assessment Screening Report [\[REP4-037\]](#) and in the Report to Inform Appropriate Assessment (RIAA) Appendix 1: Screening matrices [\[REP4-041\]](#).

C.2.14 NE agreed with the applicant's conclusions in relation to the sites for which LSE could be excluded [\[RR-045\]](#). No representations were made by any other IPs on the conclusions of no LSE for those sites screened out for all qualifying features identified in tables 7.1 to 7.5 in [\[REP4-037\]](#).

LSE from the proposed development in-combination

C.2.15 The applicant addressed potential in-combination effects arising from the proposed development within [\[REP4-037\]](#) which sets out the methodology applied. The other plans and projects included in the in-combination assessment are set out in tables 6.2 to 6.6 in [\[REP4-037\]](#).

C.2.16 Where the applicant's screening exercise established the potential for LSE to arise from the proposed development alone, the potential for in-combination effects was also considered and discussed in the applicant's HRA Screening Report [\[REP4-037\]](#). This approach, as far as it has a bearing on the screening for LSE, was not a matter for discussion in the examination.

C.2.17 Section 7 of the applicant's HRA screening report [\[REP4-037\]](#) identifies the sites and qualifying features where LSE have been identified by the applicant.

LSE Assessment Outcomes

C.2.18 The European sites and all qualifying features for which the applicant concluded no LSE are listed in the HRA Report Screening Matrices [\[REP4-039\]](#), within the applicant's HRA Screening Report [\[REP4-037\]](#) and in the RIAA Appendix 1: Screening Matrices [\[REP4-041\]](#).

C.2.19 The applicant also concluded no LSE on the onshore ecology qualifying features of the Humber Estuary SAC and Humber Estuary Ramsar site.

- C.2.20 Where the applicant's conclusions of potential LSE on the European sites and their qualifying features considered were disputed by IPs during the examination, all these matters (set out in C.2.6 to C.2.10) were resolved during the examination.
- C.2.21 The sites and qualifying features, along with the impact pathways, are identified in the applicant's RIAA (table 7.1 [\[REP6-028\]](#)) and also listed in table A.1 in the RIES. These were therefore assessed by the applicant to determine if they could be subject to AEoI, as a result of the proposed development alone or in-combination with other plans and projects, in view of their conservation objectives.

The ExA's reasoning on LSE

- C.2.22 Taking into account the clarifications described above, the ExA is therefore satisfied that the correct sites and impact-pathways have been considered by the applicant in its screening for LSE.
- C.2.23 The ExA is also satisfied that the proposed development is likely to have a significant effect on the qualifying features of European sites identified in the applicant's final RIAA at D6 in table 7.1 [\[REP6-028\]](#) and listed in table A.1 in the RIES [\[PD-022\]](#) when considered alone or in-combination with other plans or projects.

C.3 CONSERVATION OBJECTIVES FOR SITES AND FEATURES

- C.3.1 The conservation objectives for the sites and features identified for LSE are set out for each of the designated sites of the applicant's RIAA [\[REP6-028\]](#).
- C.3.2 The ExA sought clarifications in relation to the conservation objectives used to inform the assessment of AEoI.
- C.3.3 The applicant provided [\[REP4-030\]](#) a single set of conservation objectives for the benthic and subtidal ecology and for the marine mammals' receptor group. The ExA requested RIES Q.4 [\[PD-022\]](#) the applicant confirms the conservation objectives applied to all these sites and provides appropriate references to where this information derived from. The ExA also sought a view from NE in relation to confirming its satisfaction with the approach of applying the same conservation objectives to all of these sites.
- C.3.4 NE confirmed in its response to the RIES that it was satisfied with the applicant's application of the conservation objectives [\[REP5-172\]](#).
- C.3.5 The RIAA [\[REP4-030\]](#) also reported on the condition status for all sites screened in for offshore ornithology by providing a table on population data and conservation status per species for the sites screened into the assessment (RIAA tables 9.48 to 9.73). Information on the condition status for all the designated sites for Annex I habitat, Annex II migratory fish and Annex II marine mammals was unclear. Following a request for clarification from the ExA RIES Q.5 [\[PD-022\]](#), the applicant advised that the following sites/features were in unfavourable condition [\[REP4a-120\]](#) and [\[REP5-149\]](#):
- Inner Dowsing, Race Bank, and North Ridge SAC:
 - sandbanks which are slightly covered by sea water all the time

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- The Wash and North Norfolk Coast SAC:
 - sandbanks which are slightly covered by sea water all of the time (28% of the feature at this site reported to be unfavourable-recovering)
 - mudflats and sandflats not covered by seawater at low tide;
 - large shallow inlets and bays (60% of the qualifying feature at this site is considered to be unfavourable-no change)
 - reefs.

C.3.6 Lincolnshire Wildlife Trust (LWT) [RR-036] stated that the applicant had not considered the unfavourable condition of the sandbank qualifying feature of Inner Dowsing Race Bank North Ridge (IDRBNR) SAC in its conclusions of adverse effects.

C.3.7 In its response [PD1-071], the applicant advised that the assessment of effects on integrity to IDRBNR SAC took account of the site's unfavourable status. It also acknowledged the updated NE advice package was published after the submission of the DCO application but considered that the changes would have no effect on the conclusions in relation to this site. No further representations or responses to the ExA's question RIES Q. 52 and 68 [PD-022] were received from LWT during the course of the examination on its representation.

C.3.8 The ExA is therefore satisfied that the SoS has access to the correct conservation objectives for use in an appropriate assessment of the proposed development. Where conservation objectives have been a specific matter discussed during the examination, this is covered in the relevant sections of this appendix.

C.4 STAGE 2: FINDINGS IN RELATION TO ADVERSE EFFECTS ON INTEGRITY (AEol)

C.4.1 The European sites and qualifying features identified in table 7.1 of the applicant's RIAA [REP6-028] were further assessed by the applicant to determine if they could be subject to AEol from the proposed development, either alone or in-combination. The assessment of AEol was made in light of the conservation objectives for the European sites [REP4-030].

C.4.2 The applicant's RIAA [REP4-030] concluded that the proposed development would not result in AEol of any of the qualifying features of the European sites for which a LSE pathway was identified, with the exception of the kittiwake qualifying feature of the FFC SPA for in-combination effects from collision risk.

C.4.3 Table 1 below identifies the sites, features and LSE for which NE agreed with the applicant's conclusions or where no matters were raised during the examination. Where IPs and the applicant were in agreement that an AEol could be excluded, the ExA had no reason to question or dispute the findings of the assessment. Sites and qualifying features where no matters were raised in relation to the applicant's conclusions of no AEol, or where agreement was reached at the start of the examination, are therefore set out in Table 1.

C.4.4 The remaining conclusions of no AEol in relation to European sites and relevant qualifying features where LSE were identified by the applicant were disputed by IPs and were discussed throughout the examination. The account of the examination of these matters is set out in the following sections.

Table 1: LSE to European sites and qualifying features for which AEol from the proposed development (alone or in-combination) where no AEol was agreed or where no matters were raised during the examination.

European Site(s)	Summary of qualifying Feature(s)	Position with NE/ NatureScot
The Wash and North Norfolk Coast SAC	Mudflats and sandflats not covered by seawater at low tide Large shallow inlets and bays <i>Salicornia</i> and other annuals colonizing mud and sand Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)	No matters raised
Humber Estuary SAC	Estuaries Mudflats and sandflats not covered by seawater at low tide Sandbanks which are slightly covered by sea water all the time <i>Salicornia</i> and other annuals colonizing mud and sand Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)	No concerns raised (NE: [REP5-172])

European Site(s)	Summary of qualifying Feature(s)	Position with NE/ NatureScot
Humber Estuary Ramsar site	Dune systems with humid dune slacks Estuarine waters Intertidal mud and sand flats Saltmarshes Criterion 5: Assemblages of non-breeding waterfowl Criterion 6: species/populations occurring at levels of international importance shelduck, knot, dunlin, black-tailed godwit, bar-tailed godwit, redshank	No concerns raised (NE: [REP5-172])
Humber Estuary SPA	All screened in qualifying features	No concerns raised (NE: [REP5-172])
Saltfleetby-Theddlethorpe Dunes and Gibraltar Point SAC	All screened in qualifying features	No concerns raised (NE: [REP5-172])
Gibraltar Point SPA	Non-breeding grey plover, sanderling, bar-tailed godwit, little tern (breeding)	No concerns raised (NE: [REP5-172])

European Site(s)	Summary of qualifying Feature(s)	Position with NE/ NatureScot
Gibraltar Point Ramsar site	Grey plover Criterion 1: Coastal habitats – estuarine mudflats, sandbanks, and saltmarsh Criterion 2: Red Data book invertebrates (see table 7.1 [REP6-028], for full list) Notable plant species (see table 7.1 [REP6-028], for full list) Criterion 5: Waterfowl	No concerns raised (NE: [REP5-172])
North Norfolk Coast SPA	Eurasian marsh harrier, Eurasian widgeon, Great bittern, pied avocet, red knot, little tern, common tern, little tern	No concerns raised (NE: [REP5-172])
The Wash SPA	Pintail, widgeon, gadwall, turnstone, goldeneye, sanderling, dunlin, red knot, bewick's swan, oystercatcher, bar-tailed godwit, black-tailed godwit, grey plover, little tern, shelduck, redshank	No concerns raised (NE: [REP5-172])
The Wash Ramsar site	All onshore ecology and ornithology qualifying features	No matters raised
Greater Wash SPA	Common tern, Sandwich tern, little gull	No matters raised

European Site(s)	Summary of qualifying Feature(s)	Position with NE/ NatureScot
North Norfolk Coast SPA	Sandwich tern, Eurasian marsh harrier, Eurasian widgeon, pied avocet, red knot, little tern, common tern, little tern, great bittern	No matters raised
Flamborough and Filey Coast SPA	Herring gull	No matters raised
Farne Islands SPA	Kittiwake Sandwich tern (non-breeding)	No matters raised
Coquet Island SPA	Sandwich tern Common tern Puffin	Agree no AEoI (NE: [REP5-172])
Moray Firth SAC	Bottlenose dolphin	No matters raised
Scottish SPAs and Ramsar sites	All screened in qualifying features	No matters raised (NatureScot)

Applicant's approach to the assessment of in-combination effects

- C.4.5 The applicant's approach is set out in section 10 of the updated RIAA [REP4-030]. Throughout the examination, the applicant updated its in-combination assessment to take account of any changes in project status, to include new projects and plans and to provide clarifications in response to questions from the ExA and reflecting any changes/updates in relation to other projects in the North Sea (ExQ1 HRA 1.2 [PD-013] and ExQ2 HRA1.4 [PD-020]).
- C.4.6 NE [RR-045] and [REP2-074], BE2.6, raised concerns about the applicant's use of 3 tiers of projects in its assessment rather than 7 as NE advises. This relates to how projects are considered in terms of which are captured and at which stage in their development. It considered that this has implications for the projects included in each tier and provided a worked example to illustrate this. NE also noted that its approach includes the production of a figure of a wider area overlaying the designated sites with the projects included in the assessment.
- C.4.7 The applicant considered that NE's approach overcomplicates the assessment [AS-013]. While willing to provide an overlay, in its view the relevant figures in the HRA (figure 7.27 [REP4-030] provide sufficient information on the location of the relevant projects [AS-013][REP2-051][REP3-037][REP4-113]. The approach it has taken is in line with the Planning Inspectorate's Advice Note 17 - Cumulative Effects Assessment. It also pointed to the recently consented Sheringham and Dudgeon Extension projects (Equinor, 2022) and Hornsea Project Four (Ørsted, 2021) which did not use the 7 tier NE/JNCC approach. It noted that all operational wind farms were included in tier 1 of its assessment [REP4-113].
- C.4.8 In its RR [RR-045], NE identified the Viking Carbon Capture and Storage pipeline and the National Grid Grimsby to Walpole project as 2 additional projects that the applicant should consider in its in-combination assessment. The applicant's addendum to the RIAA [PD1-096] includes the Viking project within its updated in-combination assessment, but the applicant states in section 1.0 that insufficient evidence is available to consider the Grimsby to Walpole scheme.
- C.4.9 The applicant's RIAA submitted at D6 [REP6-028], table 7-9, contains the Viking Carbon Capture project as well as further updates to the list of in-combination projects considered at the screening stage. The following projects were added for effects on sites in the onshore ecology and ornithology receptor groups:
- Weston Marsh National Grid Substation
 - Surfleet Marsh protein extraction facility and anaerobic digester plant
 - Ossian transmission infrastructure
- C.4.10 However, paragraph 1924 of the RIAA [REP6-028] concluded that the Ossian transmission infrastructure is at an early phase of development and thus there is insufficient evidence to provide a meaningful assessment. It is not considered further in the in-combination assessment for onshore ecology and ornithology.
- C.4.11 NE commented during the examination on the projects identified for the assessment of in-combination effects and the data taken from other relevant projects where this had the potential to alter the final conclusions of the in-combination assessment for offshore ornithology. It advised in [REP5-166] that the applicant update its in-combination assessment to take account of its advice on other windfarm applications including the Dogger Bank South and Sheringham and Dudgeon Extension projects.

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- C.4.12 In its final Risk and Issues Log [\[REP6-153\]](#), NE believed that some of the figures presented by the applicant for these projects were incorrect. NE therefore based its final conclusions on AEoI using its own calculations for the Dogger Bank South and Sheringham and Dudgeon Extension projects and noted that there were some discrepancies in the totals for other projects such as Berwick Bank offshore windfarm [\[REP6-149\]](#).
- C.4.13 The applicant's final RIAA [\[REP6-028\]](#) contains revised figures for projects such as Dogger Bank South and in its draft SoCG with NE [\[REP6-093\]](#), the applicant stated that the D6 RIAA included use of the correct and most up-to-date project impacts for the in-combination assessment. Although NE did not have the opportunity to comment on these final updated figures, its end of examination position stated [\[REP6-149\]](#) that the discrepancies did not prevent NE from making its integrity judgements.
- C.4.14 An additional project, the removal of the Galahad gas platform topsides and monopod, located within the proposed development's array area was introduced by NE at D6 [\[REP6-155\]](#). NE noted that this development was not included in the applicant's in-combination assessment and advised that assessment chapters required updating. At the close of the examination, therefore, potential in-combination effects were concluded without the addition of this project in the applicant's RIAA.

Position at the start of the examination

- C.4.15 At the start of the examination, on the basis of the information submitted with the DCO application, NE stated in tables 5.1 and 6.1 of [\[RR-045\]](#) it was not satisfied that an AEoI could be excluded beyond reasonable scientific doubt either alone or in-combination on qualifying features of the following European sites:

Project alone:

- Greater Wash SPA (red-throated diver feature)
- IDRBNR (Annex I Sandbank and Reef features (and supporting habitat))
- The Wash and North Norfolk Coast SAC (harbour seal)
- Humber Estuary SAC (grey seal)
- Southern North Sea SAC (harbour porpoise)
- Berwickshire and North Northumberland Coast SAC (grey seal)

In combination with other plans or projects:

- IDRBNR SAC (Annex I reefs and sandbanks qualifying features which are slightly covered by water at all times (and supporting features))
- The Wash and North Norfolk Coast SAC, The Wash SPA, The Wash Ramsar site (benthic qualifying features)
- The Wash SPA and Ramsar site (onshore ornithological features)
- The Wash and North Norfolk Coast SAC (harbour seal)
- Southern North Sea SAC (harbour porpoise)
- Humber Estuary SAC (grey seal)
- Berwickshire and North Northumberland Coast SAC (grey seal)
- FFC SPA (guillemot, razorbill, black-legged kittiwake (hereafter referred to as kittiwake) and seabird assemblage qualifying features)
- The Farne Islands SPA (guillemot and seabird assemblage)
- Gibraltar Point SPA and Ramsar site (onshore ornithological features)
- Alde-Ore Estuary SPA and Ramsar site (lesser black-backed gull)
- Coquet Island (seabird assemblage)

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- C.4.16 NE also raised concerns about the approach to the assessment of the gannet qualifying feature of the FFC SPA.
- C.4.17 The RSPB [\[PD1-109\]](#) concluded that it could not rule out AEol for project alone effects at the FFC SPA for the following:
- collision mortality on the kittiwake population
 - displacement mortality on the guillemot population
 - displacement mortality on the razorbill population
 - combined collision and displacement mortality on the seabird assemblage
 - collision mortality on the kittiwake population
- C.4.18 The RSPB [\[PD1-109\]](#) also could not rule out an AEol in-combination with other plans or projects at the FFC SPA for:
- collision mortality on kittiwake population
 - combined collision and displacement mortality on the gannet population
 - displacement mortality on the guillemot population
 - displacement mortality on the razorbill population
 - combined collision and displacement mortality on the seabird assemblage
- C.4.19 It also stated it was unable to reach an AEol conclusion on the North Norfolk Coast SPA Sandwich tern from collision mortality and could not rule out an AEol on the Greater Wash SPA red-throated diver qualifying feature alone or in-combination from displacement during all phases.
- C.4.20 The ExA invited NatureScot to take part in the examination as an ‘other person’ [\[PD-009\]](#). The ExA asked NatureScot in the RIES Q.6 [\[PD-022\]](#) to comment on the applicant’s conclusions of no AEol (both project alone and in-combination) in relation to the Scottish sites listed in table 1 above. By the close of the examination no responses were received from NatureScot or from other IPs to dispute the applicant’s conclusions of no AEol on these sites.
- C.4.21 The matters raised by IPs including NE were examined and questioned further by the ExA during the course of the examination. Several over-arching matters in relation to the applicant’s AEol conclusions that affected the assessment of more than one site were also raised by IPs and were examined further. These are discussed in the following section C4 of this appendix.

Offshore, onshore and intertidal ornithology matters

Baseline data

- C.4.22 At the point of the application, the applicant ‘s overwintering bird survey report [\[APP-208\]](#) did not include the full results from its second year of surveys. NE [\[RR-045\]](#) noted that it had been unable to reach conclusions on the information within the applicant’s RIAA in the absence of the data on dark-bellied brent goose, pink-footed goose, golden plover Annex 1 species and curlew and lapwing qualifying features of onshore sites (The Wash SPA and Ramsar site, and Humber Estuary SPA) using FLL. The RSPB [\[RR-056\]](#) also requested that the additional data should be provided.
- C.4.23 The applicant supplied updated bird survey information as [\[AS1-108\]](#) and in its [\[AS1-095\]](#) the RIAA conclusions were updated to take these data into account with NE advising it was satisfied that sufficient information had been used by the

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applicant to characterise usage of FLL [\[REP1-066\]](#). The RSPB [\[REP1-047\]](#) also confirmed that it had no further concerns with the submission of the additional winter bird survey data. Minor updates to these reports were submitted in [\[REP5-091\]](#) to [\[REP5-096\]](#).

C.4.24 NE noted, however, [\[REP1-066\]](#) that the additional survey data demonstrated increases in numbers of pink-footed goose, curlew, lapwing and golden plover and thus more birds reliant on FLL that could be disturbed. Discussion therefore continued in relation to the level of mitigation proposed by the applicant to conclude no AEoI on these sites and qualifying features. This is discussed below.

C.4.25 With respect to the provision of an appropriate level of wintering bird survey information by the applicant to support the conclusions within the RIAA, the ExA is satisfied that sufficient data have been provided such that the assessment conclusions within the RIAA for onshore and offshore ornithology can be considered to be based on a robust level of information.

Methods and approach

C.4.26 Several overarching matters relating to the applicant's assessment approach were raised by NE and the RSPB throughout the examination for both the EIA and HRA assessments. These matters are therefore discussed below.

Applicant's approach to apportioning adult birds to European sites

C.4.27 This section addresses the specific approach to apportioning to European sites.

C.4.28 Both the RSPB [\[RR-056\]](#) and NE [\[RR-045\]](#) initially queried the applicant's apportioning of numbers of adult birds identified in surveys (including Digital Aerial Surveys (DAS)) in its assessment, and the use of these data in reaching the conclusions of project alone and, subsequently, in-combination impacts. NE advised that different qualifying features would require a different approach to apportioning. In particular, it considered that a bespoke approach to guillemot and razorbill at FFC SPA was required to avoid underestimating the extent of the impact on these features [\[RR-045\]](#).

Use and the definitions of bio-seasons in the assessments

C.4.29 NE raised specific concerns [\[RR-045\]](#) [\[REP1-061\]](#) that the applicant had not used NE's preferred approach to apportioning, including the use of a bespoke post-breeding bio-season for both guillemot (August to September) and razorbill (August to October). NE identified that the assessment should refer to apportioning rates of 68.5% to this bio-season for guillemot and 70.6% for razorbill, requesting an updated assessment that presented NE's preferred approach.

C.4.30 The applicant submitted [\[PD1-071\]](#) [\[REP2-058\]](#) (for guillemot) to address these matters, noting that it considers that applying a post-breeding bio-season for guillemot introduces an element of double counting and a disproportionate increase to the overall annual displacement totals. Nevertheless, it supplied updated figures in response to NE's preferred approach in [\[REP4-030\]](#) alongside its own preferred approach.

C.4.31 With the acceptance of the ORBA and in response to the applicant's D4 submission [\[REP4-030\]](#) NE advised [\[REP4-139\]](#) that the applicant's revised figures for guillemot and razorbill were appropriate.

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- C.4.32 At the close of the examination, queries relating to how the applicant apportioned adult birds to European sites and its modelling approaches had been addressed by the applicant through updates to its RIAA and through submission into the examination of clarification documents for relevant offshore ornithology sites and their qualifying features [\[REP4-034\]](#) [\[REP5-101\]](#). These matters were identified as agreed with NE in its final Risk and Issues log [\[REP6-153\]](#).
- C.4.33 Some remaining details in the final calculations used by the applicant in its in-combination assessment for offshore ornithology were not confirmed with NE prior to the close of the examination, although the ExA notes that this did not affect NE's final judgements on AEoI [\[REP6-149\]](#) for offshore ornithology matters.
- C.4.34 The ExA therefore concludes that the methodology used by the applicant in reaching its assessment conclusions does provide a suitable basis on which the SoS can rely on the conclusions reached in relation to AEoI.

Findings in relation to AEoI – onshore ecology

- C.4.35 A description of each European site and its qualifying features assessed by the applicant is provided in section 3 of the applicant's HRA screening report [\[REP4-037\]](#). Potential effects resulting from the proposed development are provided in table 7.1 and described in sections 9 (project alone) and 10 (in-combination) of the applicant's RIAA [\[REP4-030\]](#).

The Wash SPA and Ramsar Site

- C.4.36 The applicant concluded [\[REP4-030\]](#) no AEoI in relation to these sites and qualifying bird features with design and mitigation measures applied (table 6.1, [\[REP4-030\]](#)) to reduce potential disturbance and habitat loss for birds.
- C.4.37 Mitigation measures included initially by the applicant were embedded design measures to reduce the area of habitat affected by the onshore export cable corridor (ECC) and measures during construction secured through a Code of Construction Practice (CoCP) [\[APP-268\]](#). The applicant also noted the availability of alternative foraging habitat for all qualifying features nearby, including two wildlife trust reserves (The Haven and Anderby Creek).

Pink-footed goose, dark-bellied brent goose– disturbance / displacement – FLL – construction

- C.4.38 NE considered in table I of [\[RR-045\]](#) that further information was required to demonstrate the availability of alternative foraging habitat for the curlew, lapwing, pink-footed goose, golden plover and dark-bellied brent goose qualifying features in order to reach a conclusion of no AEoI on these qualifying features. NE also advised that further mitigation may be required and provided examples of potential measures in annex 1, [\[RR-045\]](#). It considered that a separate Outline Annex 1 bird species mitigation plan should be provided for pink-footed goose, based on NE's own guidance as the requirements for this species are different to the other qualifying features. It also noted that further baseline data characterisation and information on cropping patterns was required to understand the use of FLL and distribution of pink-footed and dark bellied brent goose and thus the extent of proposed mitigation measures
- C.4.39 The applicant [\[PD1-071\]](#) responded initially that an appropriate level of assessment had been done and maintained that the observed numbers and movements of this species during winter bird surveys indicated that the proposed working restrictions

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would be sufficient mitigation. The applicant also noted that NE's proposed mitigation strategy would not be applicable to the proposed development given the particular field types affected. It also provided updated clarifications [PD1-093] on onshore ornithology to provide further analysis of cropping patterns.

- C.4.40 As noted in section C.4.22 to C.4.25 of this Recommendation, NE [REP3-073] identified that the applicant's second year of surveys [AS1-108] had identified an increase in the numbers of pink-footed goose and dark-bellied brent goose. As such, it considered that further mitigation, such as wider seasonal restrictions, would therefore be required in order for NE to agree a conclusion of no AEoI. The ExA therefore questioned in ExQ2, HRA 1.1 [PD-020] whether a derogation case could be required.
- C.4.41 At D4 [REP4-030], NE considered that if the applicant adopted further mitigation measures from other projects, that a derogation case could be avoided. The applicant also noted in its response [REP4-107] to ExQ2, HRA 1.2 [PD-020] that it was exploring with NE whether these measures could be adapted to the proposed development but was also engaging with NE over a possible derogation case [REP4-107]. This matter was also discussed at ISH5, with the ExA requesting NE and the applicant further progress the mitigation plans [EV9-001].
- C.4.42 Following further liaison between the applicant and NE, at D6, NE commented [REP6-152] and [REP6-153] that the applicant's proposed additional pink-footed goose mitigation measures presented in [REP4a-086] and [REP4a-144] addressed its concerns provided an update to the OLEMS and schedule of mitigation were supplied at D6. These measures included additional screening to minimise disturbance to dark-bellied brent goose and with those in place, NE expected to be able to agree to a conclusion of no AEoI to all the over wintering qualifying features of the Wash SPA and Ramsar site.
- C.4.43 The applicant's updated OLEMS [REP6-010] commits to 'further consideration' of the need for visual screening to be installed and the materials to be used, with a further commitment to explore further mitigation measures at the detailed design stage, secured in a Landscape and Ecology Management Strategy at that point.
- C.4.44 NE's final response [REP6-152] notes the commitment to additional screening but queried the lack of contingency measures for situations where screening may not be possible and a commitment to implementing monitoring. It also stated that a commitment to implement any recommendations that may arise as a result of the monitoring should also be included.
- C.4.45 At the close of the examination, NE's Risk and Issues Log [REP6-153] provided an update on its position, stating that it was likely to agree to a conclusion of no AEoI to this site and qualifying features provided its final comments were incorporated into the OLEMS. The ExA notes that matters raised by NE in [REP6-152] appear to have been addressed through further amendments to the OLEMS by the applicant at D6 [REP6-071] but no opportunity was available for NE to review the amendments prior to the close of the examination.
- C.4.46 No matters were raised by any other IPs during the examination in relation to this site and qualifying features.

Curlew, golden plover, lapwing – disturbance and displacement to FLL - construction

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- C.4.47 The applicant concluded [\[AS1-095\]](#) no AEol in relation to these sites and qualifying bird features from visual disturbance to species using FLL. The applicant set out in table 6.1 [\[APP-235\]](#), the mitigation measures applied to reduce potential disturbance to birds that have been used to reach conclusions of no AEol to all relevant sites and qualifying features.
- C.4.48 NE's D6 response [\[REP6-152\]](#) referred specifically to further measures for curlew, golden plover and lapwing at the Wash SPA and Ramsar site to minimise disturbance. This included advising that the requirement for an ecological clerk of works (ECoW) to oversee monitoring of bird disturbance responses be incorporated into an updated OLEMS at D6, mitigation for disturbance at Anderby Creek, identification of contingency measures if screening is not possible at the Haven, examples of mitigation an ECoW may suggest when overseeing monitoring of bird responses and consideration of cold weather working. NE concluded by stating that if its advice was incorporated into the OLEMS to minimise disturbance, it expected to be able to reach a conclusion of no AEol to the golden plover, lapwing and curlew features of the Wash SPA and Ramsar site.
- C.4.49 As identified above in paragraph C.4.43, the applicant updated its OLEMS at D6 [\[REP6-070\]](#), but there was no opportunity for NE to respond by the close of the examination to confirm that all of its outstanding concerns in relation to mitigation had been addressed.

The ExA's conclusions on The Wash SPA and Ramsar site

- C.4.50 The ExA notes that NE had outstanding concerns in relation to mitigation measures within the OLEMS. Furthermore, NE did not have the opportunity to comment on the applicant's final OLEMS submitted at D6 [\[REP6-070\]](#). This could be verified with NE, however, if the SoS wishes to consult on the applicant's final submitted documents at D6.
- C.4.51 However, the ExA notes the position of NE at the close of the examination [\[REP6-153\]](#) that providing its amendments are addressed in the applicant's final OLEMS, that it would agree to a conclusion of no AEol for all the qualifying features considered here for the Greater Wash SPA and Ramsar site alone and in-combination.
- C.4.52 Given this position and with mitigation measures as set out and secured within the OLEMS [\[REP6-070\]](#), the ExA would be satisfied that project alone and in-combination AEol can be excluded on the curlew, golden plover, lapwing, pink-footed goose and dark-bellied brent goose qualifying features from the disturbance, habitat loss and pollution impact-pathways.

Greater Wash SPA

Little gull, common tern, Sandwich tern - collision risk

- C.4.53 NE raised concerns [\[RR-045\]](#) and [\[REP3-070\]](#) with the applicant's methodology in relation to the assessment of collision risk on these qualifying features. NE noted that its Collision Risk Modelling approach and use of Nocturnal Activity Factors (NAF) should be followed and the assessments reviewed. The RSPB [\[PD1-109\]](#) was unable to reach a conclusion in respect of AEol from collision risk to the Sandwich tern qualifying feature.
- C.4.54 In response to a request from the ExA ExQ2 HRA 1.1 [\[PD-020\]](#) and RIES Q.76 [\[PD-022\]](#), the applicant's revised RIAA [\[REP4-030\]](#) updated its assessment on these

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qualifying features. It also supplied an updated Migratory Bird Collision Risk Modelling report [\[REP4a-150\]](#) in light of NE's comments.

- C.4.55 With these amendments and updated assessments provided, NE [\[REP5-172\]](#) confirmed it was satisfied with the applicant's conclusions of no AEol either project alone or in-combination with other plans and projects on the little gull, common tern and Sandwich tern qualifying features at Greater Wash SPA.
- C.4.56 No further representations from the RSPB on the Sandwich tern qualifying feature at Greater Wash SPA were received by the close of the examination.

Red-throated diver, common scoter – displacement and disturbance

- C.4.57 The examination considered the applicant's conclusions of no AEol in relation to the proposed locations of ORCPs and the potential for disturbance and displacement arising from vessel movements for the export cable corridor during construction and decommissioning and vessel movements during operation and maintenance phases. NE's initial position [\[RR-045\]](#) was that it had significant concerns due to the presence of the ORCP within the Greater Wash SPA and that this had not been fully assessed by the applicant. No concerns were raised in relation to disturbance/displacement effects from the presence of the array area due to its distance from the Greater Wash SPA.
- C.4.58 The detail of the discussion and position reached by D4 in relation to these matters is set out in the RIES [\[PD-022\]](#). At D3 [\[REP3-070\]](#) NE agreed that following review of the applicant's ORBA change request addendum to the HRA [\[AS1-095\]](#), that effects on the common scoter qualifying feature were likely to be minimal.
- C.4.59 The ExA requested an update from the applicant on its methodology on red-throated diver in ExQ2 OR 1.1 [\[PD-020\]](#). Both NE [\[REP4-144\]](#) and the applicant [\[REP4-107\]](#) stated that a methodology had been agreed for project-specific displacement effects from the ORCP.
- C.4.60 The applicant's RIAA [\[REP4-030, REP5-101\]](#) update included consideration of the presence of the ORCP on red-throated diver, setting out (figure 9.8, [\[REP4-030\]](#)) the position of the ORCP in relation to other windfarms. The applicant also included in [\[REP2-065\]](#) a commitment to a reduction in height of the ORCP. A seasonal restriction on construction activities (the 'Greater Wash SPA restriction area' which means the Greater Wash SPA plus a 2km buffer) between 1 November and 31 March each year through a deemed marine licence condition was added in [\[REP5-002\]](#).
- C.4.61 The applicant concluded in the D5 RIAA [\[REP5-101\]](#) that as a result of the proposed development, there would be an increase in baseline red-throated diver mortality of 0.021% [\[REP5-101\]](#) and it considered this would make no material contribution to changes in the red-throated diver population or baseline mortality. With mitigation in place as set out above, the applicant concluded that this level of mortality would further reduce or be unlikely to occur for project alone effects.
- C.4.62 The applicant concluded in [\[REP5-101\]](#) that this would also result in an inconsequential level of in-combination effect, noting only the Sheringham and Dudgeon Extension projects as likely to overlap with the proposed development.
- C.4.63 NE [\[REP4a-137\]](#) noted that while there was the possibility that there would be an additional displacement effect arising from the presence of the ORCP due to the

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likely displacement effect from other existing windfarms, that this effect was unlikely to represent an additional pressure on the distribution of red-throated diver within the SPA. NE welcomed the seasonal restriction, but noted that it should be applied to the SPA plus a 2km buffer. With that in place, NE confirmed in [\[REP4a-137\]](#) that it would consider there to be no in-combination AEoI on the red-throated diver qualifying feature of the SPA.

- C.4.64 The RSPB's initial position [\[PD1-109\]](#) was that it could not rule out an AEoI either alone or in-combination on the red-throated diver qualifying feature from vessel disturbance. It considered that if red-throated divers are displaced from part of the SPA which would otherwise be suitable for them, that the effect would be to reduce the functional size of the SPA, undermining its conservation objective. In its response to the RIES [\[REP5-160\]](#), the RSPB stated that a further response would be supplied on this matter, but no subsequent representations were received to confirm its position by the close of the examination.
- C.4.65 With the applicant including a seasonal restriction for cable laying works or installation of the ORCP to its draft DCO [\[REP4a-007\]](#), at D6 [\[REP6-149\]](#) NE indicated it was satisfied with the conclusion of no AEoI, noting however that the final DCO should include wording to ensure the 2km buffer to the SPA is applied in relation to the seasonal restriction on construction activities. The applicant's draft DCO [\[REP5-002\]](#) includes updated wording to this effect.
- C.4.66 In its final Risk and Issues Log, therefore, NE noted [\[REP6-153\]](#) it agreed with the applicant's conclusions of no AEoI from disturbance and displacement effects to the red-throated diver qualifying feature of the Greater Wash SPA for project alone effects and that there would be no measurable contribution from Outer Dowsing to an in-combination AEoI. NE nevertheless noted that to fully resolve the issue, the applicant's Schedule of Mitigation [\[REP6-074\]](#) be updated to align the mitigation commitments.

The ExA's conclusions on The Greater Wash SPA

- C.4.67 No matters were raised during the Examination in relation to collision risk to red-throated diver or common scoter features. In light of NE's comments on the little gull, common tern and Sandwich tern qualifying features, the ExA is satisfied that this pathway will not result in AEoI to the European site from the proposed development alone or in-combination with other plans or projects.
- C.4.68 On the basis of the above information, the ExA is also satisfied that the disturbance and displacement LSE pathway will not result in AEoI to the European site from the proposed development alone on the common scoter qualifying feature.
- C.4.69 In relation to the red-throated diver qualifying feature, the ExA notes that there was no final opportunity for the applicant to update its D6 Schedule of Mitigation requested by NE prior to the close of the examination nor an opportunity for NE to review and confirm full agreement had been reached. This could be verified with NE, however, if the SoS wishes to consult on the applicant's final submitted documents at D6.
- C.4.70 However, the ExA notes the position of NE at the close of the examination [\[REP6-155\]](#) that providing its concerns are addressed, that it would agree to a conclusion of no AEoI for the red-throated diver qualifying feature of the Greater Wash SPA and Ramsar site alone and in-combination.

- C.4.71 Given this position, the ExA is therefore satisfied that project alone and in-combination AEoI can be excluded on the red-throated diver qualifying feature from the disturbance and displacement impact-pathways.

North Norfolk Coast SPA and Ramsar Site

Sandwich tern – collision risk

- C.4.72 The applicant concluded initially [\[AS1-095\]](#) an inconsequential level of project alone effects (0.2 breeding adult mortality, equating to a 0.03% increase in baseline mortality in the breeding bio-season for the citation population, or 0.015% using the recent colony count) and thus concluded there would be no implications for the conservation objective to maintain the population in the long term and therefore no AEoI alone or in combination with other plans or projects.
- C.4.73 Both NE [\[RR-045\]](#) and the RSPB [\[RR-056\]](#) initially identified that while conclusions had been reached within the applicant's RIAA, no detailed assessment had been presented for in-combination effects. NE also considered that the applicant's project alone assessment should be updated before re-assessing the contribution to in-combination AEoI [\[RR-045\]](#).
- C.4.74 NE also initially queried [\[RR-045\]](#) and [\[REP3-070\]](#) the accuracy of the project alone figures, based on its feedback on apportioning, survey data and HPAI (see chapter 3.9 of this Recommendation for the examination of HPAI matters).
- C.4.75 At D3, NE noted [\[REP3-070\]](#) that although the applicant's assessment of effects on this qualifying feature did not take account of NE's preferred apportioning approach but agreed that it was likely due to the limited connectivity with the colonies of Sandwich tern at North Norfolk Coast SPA that there would be no project alone AEoI and that as such, it was likely that an in-combination AEoI could also be excluded.
- C.4.76 The applicant's updated RIAA [\[REP4-030\]](#) supplied the project alone assessment for the Sandwich tern qualifying feature using NE's advised approach. For Sandwich tern using NE's advised approach (100% birds as adults, 100% apportioned to NNC SPA) the applicant concluded a mortality of 0.4 individuals and reiterated its position that this predicted increase in baseline mortality (0.051% considering the citation population, 0.026% using the recent colony count) would still be undetectable compared to natural population fluctuations.
- C.4.77 NE confirmed [\[REP5-166\]](#) it was satisfied with the applicant's updated assessment approach for Sandwich tern at NNC SPA and Ramsar site. It maintained nevertheless that the project alone figures should be carried through to in-combination assessment [\[REP5-171\]](#) but stating "*we acknowledge, in this case, that the project alone impact is sufficiently low for AEoI to be excluded*" and "*in these instances we do not consider an in-combination assessment is necessary*" NE further confirmed it agreed with the conclusions of no AEoI either alone or in-combination in its D6 response [\[REP6-149\]](#) for this site and qualifying feature.
- C.4.78 In its final SoCG with the applicant [\[REP6-199\]](#), the RSPB maintained that it was unable to reach a conclusion on an AEoI to this site and qualifying feature following the applicant's updated RIAA [\[REP4-030\]](#). It explained that the RSPB disagrees with the approach to *de minimis* thresholds and the application of a 1% threshold in impact assessments used by NE, highlighting that it prefers the NatureScot approach which advises the use of lower thresholds in the assessment.

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Pink-footed goose – FLL – disturbance of birds outside the SPA

- C.4.79 The applicant concluded [\[AS1-095\]](#) no AEoI on the pink-footed goose qualifying feature of NNC SPA and Ramsar site from disturbance to birds using FLL. The matters raised in relation to this species relate to appropriate levels of mitigation and are similar to those described for the same qualifying feature of The Wash SPA and Ramsar site, described above.
- C.4.80 In response to a question from the ExA RIES Q.82 [\[PD-022\]](#), NE advised [\[REP5-172\]](#) that it had no concerns other than for pink-footed goose, although its specific feedback on the applicant's updated mitigation measures in [\[REP5-170\]](#) refers only to this feature using FLL in relation to The Wash SPA.
- C.4.81 In response to the ExA's Rule 17 [\[PD-028\]](#), NE [\[REP6-155\]](#) confirmed however that provided its outstanding concerns on the mitigation measures presented by the applicant were addressed, NE would agree to a conclusion of no AEoI on this qualifying feature of the North Norfolk Coast SPA.
- C.4.82 The applicant's Closing Statement [\[REP6-121\]](#) considered that it had resolved matters relating to mitigation measures for this qualifying feature to the satisfaction of NE with the acceptance of the additional measures for pink footed goose set out in above.

The ExA's conclusions on North Norfolk Coast SPA and Ramsar site

- C.4.83 The ExA is satisfied, on the basis of the information supplied, that the collision risk impact-pathway will not result in AEoI to the Sandwich tern qualifying feature of NNC SPA and NNC Ramsar site, either alone or in-combination with other plans and projects.
- C.4.84 The ExA is satisfied that the applicant has identified and secured mitigation measures in relation to the pink-footed goose qualifying feature for the disturbance and displacement impact-pathway (set out in relation to The Wash SPA above). With the exception of NE, no other IPs commented on the applicant's conclusions of no AEoI for this qualifying feature of the North Norfolk Coast SPA and Ramsar site.
- C.4.85 In relation to the pink-footed goose qualifying feature, the ExA notes that there was no final opportunity for the applicant to update its D6 Schedule of Mitigation requested by NE prior to the close of the examination nor an opportunity for NE to review and confirm full agreement had been reached. This could be verified with NE, however, if the SoS wishes to consult on the applicant's final submitted documents at D6.
- C.4.86 However, the ExA notes the position of NE at the close of the examination [\[REP6-153\]](#), [\[REP6-155\]](#) that providing its amendments are addressed in the applicant's final OLEMS, that it would agree to a conclusion of no AEoI for the pink-footed goose qualifying feature of the North Norfolk Coast SPA and North Norfolk Coast Ramsar site alone and in-combination.
- C.4.87 Given this position and with mitigation measures as set out and secured within the OLEMS [\[REP6-070\]](#), the ExA is satisfied that project alone and in-combination AEoI can be excluded on pink-footed goose qualifying feature from the disturbance to birds using FLL.

Findings in relation to AEoI – offshore and intertidal ornithology

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- C.4.88 A description of each European site and its qualifying features assessed by the applicant is provided in section 3 of the applicant's HRA screening report [\[REP4-037\]](#). Potential effects resulting from the proposed development are provided in table 7.1 and described in sections 9 (project alone) and 10 (in-combination) of the applicant's RIAA [\[REP4-030\]](#).

Alde-Ore Estuary SPA and Ramsar site

Lesser black-backed gull – collision risk

- C.4.89 At the start of the examination, the applicant concluded [\[AS1-095\]](#) no project alone or in-combination AEoI from collision risk, on the basis of a predicted annual collision risk mortality of 0.2 breeding adult birds. This represented an increase to baseline mortality of 0.005% (using the citation population) or 0.0338% (using the recent colony count). The applicant's initial conclusions were disputed by NE [\[RR-045\]](#) on the basis of the applicant's decision to rule out the need for an in-combination assessment due to the very low mortality figures from the project alone. NE also commented on the lack of the second year of over-wintering bird data [\[RR-045\]](#) preventing full conclusions from being reached.
- C.4.90 The submission of the updated RIAA following the ORBA change request [\[REP4-030\]](#) identified a slight increase to baseline mortality from 0.2 to 0.3 birds.
- C.4.91 NE nevertheless confirmed [\[REP3-070\]](#) and [\[REP6-149\]](#) that it agreed with the applicant's conclusions of no project alone AEoI to this site and qualifying feature based on an increase to annual baseline mortality of 0.06% and noting that the limited connectivity and low project alone numbers with the Alde-Ore Estuary lesser black-backed gull (LBBG) colony meant that in-combination effects could also be excluded for this site and qualifying feature.

The ExA's conclusions on Alde-Ore Estuary SPA

- C.4.92 No further matters were raised in relation to this site and qualifying feature during the examination. The ExA is satisfied, based on the information above, that an AEoI can be excluded to the LBBG qualifying feature alone and in-combination with other plans and projects from the collision risk impact-pathway.

Farne Islands SPA

- C.4.93 The applicant's RIAA [\[REP4-030\]](#) supplied an assessment which assessed the potential for AEoI resulting from disturbance and displacement due to work activities and displacement in the wind turbine generator (WTG) area (and 2km buffer) for all phases of the proposed development. The applicant considered that there is non-breeding connectivity between the proposed development and the Farne Islands SPA, identifying a mean peak of 9,066 breeding adults in the WTG +2km area, of which 3.7% (338.4) are apportioned by the applicant to the Farne Islands SPA.

Seabird assemblage – disturbance and displacement

- C.4.94 The applicant concluded no AEoI either alone or in-combination with other plans or projects on the seabird assemblage qualifying feature of the Farne Islands SPA from disturbance and displacement during the operation and maintenance phases.
- C.4.95 The applicant determined that the levels of impact would be indistinguishable from natural fluctuations in population and that overall, the proposed development would

not therefore affect the conservation objectives to maintain the population of the qualifying feature.

C.4.96 The discussion around this qualifying feature during the examination focussed on the approach to apportioning for the puffin component of the seabird assemblage. The applicant's approach was queried initially by NE in relation to mortality rates and apportioning of adults to the Farne Islands SPA. The applicant's updated RIAA [\[REP4-030\]](#) following acceptance of the ORBA addressed these points to the satisfaction of NE at D5 [\[REP5-172\]](#) for project alone effects on the puffin component of the seabird assemblage.

C.4.97 Further matters in relation to the guillemot component of the seabird assemblage at the Farne Islands SPA were raised during the examination and are discussed below.

Guillemot - disturbance and displacement

C.4.98 The applicant concluded [\[AS1-095\]](#) no AEoI on the guillemot qualifying feature of the Farne Islands SPA and seabird assemblage qualifying feature (of which guillemot is part).

C.4.99 The applicant presented both its own and NE's preferred methodology in [\[REP4-030\]](#). Taking account of the changes made through the ORBA, the applicant's methodology identified less than 2 bird mortalities (1.7).

C.4.100 Using NE's preferred approach, the applicant concludes 160 birds are apportioned to the Farne Islands SPA. The consequent mortality is estimated at 2.2 breeding adults.

C.4.101 Using the most recent colony count to establish baseline guillemot populations, the applicant's own approach concludes an increase of 0.030% in the non-breeding bio-season and using NE's approach, a baseline mortality of 0.040%.

C.4.102 NE [\[RR-045\]](#) did not agree with the conclusions of no AEoI on both qualifying features on the basis of its overarching concerns with the apportioning approach described in above.

C.4.103 The applicant's updated RIAA [\[REP4-030\]](#) also therefore provided an update using NE's preferred apportioning approach. NE did not refer to the Farne Islands SPA in its feedback on the applicant's updated ORBA assessment [\[REP3-070\]](#).

C.4.104 The ExA therefore queried whether concerns remained in relation to the applicant's conclusions on both qualifying features from disturbance and displacement AEoI RIES Q.77 [\[PD-022\]](#). In its response at D5 [\[REP5-172\]](#), NE confirmed it was satisfied with the applicant's conclusions of no AEoI from project alone effects on both qualifying features, however, it could not rule out an in-combination AEoI to the guillemot qualifying feature due to the substantial impacts of the Berwick Bank offshore windfarm. The RSPB [\[REP5-160\]](#) also considered an in-combination AEoI could occur for this site and qualifying feature due to the proposed development's effect on population growth rate over its 35-year lifetime, calculating that the population size of the Farne Islands SPA would be between 83% and 93.6% of what it would have been without developments in place.

C.4.105 NE noted, however, [\[REP5-172\]](#), that the contribution of the proposed development was small.

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- C.4.106 Further questions were raised by the ExA in its Rule 17 [\[PD-028\]](#) in relation to NE's position on the Farne Islands SPA, requesting that NE advise whether guillemot during the breeding season could be ruled out of the assessment and whether NE would still consider an in-combination AEol would occur if the applicant's assessment of mortality was to be used.
- C.4.107 The ExA [\[PD-028\]](#) also requested that the applicant comment on NE's and RSPB's positions and the potential for AEol in-combination with other plans and projects.
- C.4.108 In response, NE [\[REP6-155\]](#) restated that although the in-combination contribution to impacts on the Farne Islands SPA from the proposed development was small, it was not possible to rule out an AEol in-combination given the predicted effects of Berwick Bank OFWF and consideration of other projects having an impact on the site as well, citing Rampion 2, Five Estuaries, North Falls and Dogger Bank South. NE also reiterated its previous comments that it did not recommend the applicant's preferred methodology to determine displacement mortality and AEol.
- C.4.109 In its D6 responses [\[REP6-111\]](#) and [\[REP6-115\]](#), the applicant pointed to the NE approach being highly precautionary and that actual impacts are likely to be lower than those predicted using NE's approach. It considered that the proposed development's contribution to an in-combination effect "*can be seen as immaterial*" and an in-combination AEol could therefore be excluded. This remained its position at the close of the examination [\[REP6-121\]](#).
- C.4.110 The RSPB's D6 response to the Rule 17 [\[REP6-138\]](#) and referring to NE's response to the RIES [\[REP5-172\]](#), maintained that it considered that an in-combination AEol cannot be excluded for the guillemot qualifying feature of the Farne Islands SPA.
- C.4.111 No other IPs commented on this site and its qualifying features during the examination.

The ExA's conclusions on the Farne Islands SPA

- C.4.112 The ExA is satisfied that on the basis of the information supplied that AEol can be excluded for project alone effects on the Farne Islands SPA guillemot (and guillemot as part of the seabird assemblage qualifying feature) from the disturbance and displacement impact-pathway.
- C.4.113 The ExA considers, however, that in light of NE's position and noting its comments in relation to Berwick Bank OFW that it agrees that an in-combination AEol cannot be excluded on the guillemot qualifying feature (and guillemot as part of the seabird qualifying feature).

Flamborough and Filey Coast SPA

- C.4.114 The applicant concluded [\[AS1-095\]](#) no AEol on all qualifying features of the Flamborough and Filey Coast SPA alone and in-combination with other projects and plans with the exception of in-combination collision effects on the kittiwake qualifying feature.
- C.4.115 At the start of the examination, NE did not agree to the applicant's conclusions of no AEol on the gannet, kittiwake, guillemot, razorbill and seabird assemblage qualifying features due to concerns around the applicant's approach to the assessment. NE considered [\[RR-045\]](#) that the applicant's overall assessment approach departed from NE's preferred approach and consequently under-represented the numbers of

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birds impacted by the proposed development, particularly auk species (guillemot and razorbill). The account of the examination of these overarching matters is covered in the RIES [\[PD-022\]](#) up to D4 and summarised in section C.4.27 and C.4.28 of this appendix.

Gannet – disturbance and displacement

- C.4.116 The applicant provided an assessment which addressed the potential for AEoI to the gannet qualifying feature resulting from disturbance and displacement during all phases of the proposed development [\[AS1-095\]](#).
- C.4.117 The applicant identified that the citation population of gannet at the FFC SPA was 16,938 but noted that the population of gannets has increased significantly since the citation population count. The 2023 colony count was estimated to be 30,466. The applicant also calculated that the number of gannets estimated to occur in the WTG area + 2km buffer to be 1,119 individuals of which 527 were apportioned to the FFC SPA.
- C.4.118 Using the applicant's own assessment methodology, with the acceptance of the ORBA, the applicant calculated an annual increase in baseline mortality (against most recent colony count) of 0.075%, or two breeding adults, during construction and decommissioning phases. For the operation and maintenance phase impacts, the applicant's methodology concluded an annual increase of 0.150% or less than 4 individual breeding adults. The applicant concluded these numbers would be indistinguishable from natural fluctuations in population [\[REP4-030\]](#).
- C.4.119 Using NE's preferred approach, the applicant concluded an increase in baseline mortality of less than 1% for construction and decommissioning effects. For the operation and maintenance phase, using NE's approach identified a maximum total annual increase of baseline mortality of 0.256%. This took account of NE's preferred apportioning approach of apportioning 100% of identified adult birds to the FFC SPA.
- C.4.120 For in-combination displacement effects during the operation and maintenance phases, the applicant initially [\[REP4-030\]](#) presented results for both the 70% displacement/1% mortality approach plus the Hornsea 4 approach requested by NE [\[REP5-166\]](#). The in-combination total number of gannets predicted to be displaced by all offshore windfarms was determined to be 77.9 individuals. The applicant determines that this would result in a 3.155% increase in baseline mortality against most recent colony counts. The applicant noted it considered the assessment results to be precautionary and that double counting across multiple projects could overestimate the abundance of individuals.
- C.4.121 Although this identified level of in-combination mortality exceeded 1%, the applicant considered that as the FFC SPA gannet colony was robust with considerable growth in size since 1960 (Table 10-53, [\[REP6-028\]](#)), that this level of additional annual mortality would not affect the ability for the site to meet its conservation objectives.

Gannet – combined disturbance/displacement and collision risk

- C.4.122 The applicant also assessed the potential for the combined effects of displacement and collision risk. The applicant's assessment concluded a combined total of 155 gannet mortalities which would represent a 6.259% increase in baseline mortality against 2023 population counts, with the proposed development contributing 4.8 individuals, representing an increase in baseline mortality of 0.193% against the

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2023 population. Following further PVA analysis, the applicant concluded that the annual reduction in growth rate would be 0.9% and that this also would not result in any reversal to population growth, and therefore no AEoI on the conservation objectives to maintain the population of gannet in the long-term.

- C.4.123 NE initially [\[RR-045\]](#) highlighted that the applicant had used the migration-free breeding season in its assessment and advised that the full breeding season (March to September) should be used and the assessments updated accordingly. It also requested that the applicant confirm its Digital Aerial Survey method (DAS). These points were addressed in the applicant's updated RIAA [\[REP4-030\]](#) and agreed with NE with the acceptance of the ORBA [\[REP5-166\]](#).
- C.4.124 NE also commented that the applicant's in-combination assessment calculations should apply a range of mortality (1 to 10%) for the Hornsea 4 project given its proximity to the FFC SPA and that the applicant should update its in-combination assessment accordingly. NE supplied its own review of the applicant's conclusions at D6 [\[REP6-149\]](#) including its advice provided during the Hornsea 4 examination on the likely population growth rate at the FFC SPA over the lifetime of the proposed development (35 years). Taking account of the likelihood that this growth rate was unlikely to drop to below 1% in that timeframe, NE stated it was therefore satisfied that there would be no AEoI to the gannet qualifying feature of the FFC SPA as a result of the proposed development in-combination with other plans and projects [\[REP6-149\]](#).
- C.4.125 Points made by the RSPB on the use of the 70% macro-avoidance correction [\[RR-056\]](#) were raised, noting that it was derived from non-breeding birds. The applicant responded [\[PD-071\]](#) that these figures were agreed with NE, but the RSPB maintained its position and thus its consideration that AEoI could not be ruled out for gannet at the FFC SPA due to the application of the macro-avoidance correction factor. This remained its position at D6 [\[REP6-099\]](#).
- C.4.126 The ExA's reasoning in relation to the applicant's application of macro-avoidance correction is provided in chapter 3.9 of this Recommendation.

Guillemot –disturbance and displacement – project alone

- C.4.127 The applicant provided an assessment which addressed the potential for AEoI to the guillemot qualifying feature resulting from disturbance and displacement during all phases of the proposed development [\[AS1-095\]](#). Mortality was calculated using the applicant's approach, and both NE's standard and bespoke approaches, comparing to a conservation objective to maintain populations size from 2022 census data.
- C.4.128 In addition to initial concerns with the applicant's methodology and apportioning as set out in the RIES [\[PD-022\]](#), NE also questioned whether the applicant could undertake further design modifications to the array area to reduce the impact of the proposed development on both auk species (guillemot and razorbill) [\[RR-045\]](#).
- C.4.129 The applicant's ORBA change request [\[REP2-065\]](#) introduced a reduction in the area within which WTGs and offshore platforms would be placed in the array area to address these concerns by avoiding the high densities of auks in the northern part of the array area. An overview of these changes is provided in figure 2-1 [\[PD1-091\]](#) and the applicant's updated RIAA [\[REP4-030\]](#) amended the assessment of effects taking account of the ORBA.

- C.4.130 Using the applicant's own assessment methodology, with the acceptance of the ORBA, the applicant calculated an annual increase in baseline mortality (against most recent colony count) of 0.099% during construction and decommissioning phases. For the operation and maintenance phase impacts, the applicant's methodology concluded an annual increase of 0.199%. The applicant concluded these numbers would be inconsequential [\[REP4-030\]](#).
- C.4.131 Using NE's preferred approach, the applicant concluded an increase in baseline mortality of greater than 1% for construction and decommissioning effects. For the operation and maintenance phase, using NE's approach identified an increase in baseline mortality of 2.718%. This took account of NE's preferred apportioning approach of apportioning 100% of identified adult birds to the FFC SPA.
- C.4.132 Given the operation and maintenance outcomes identified an impact of greater than 1% using NE's methodology, the applicant carried out further Population Viability Analysis (PVA) [\[REP4a-046\]](#). This concluded a 0.1% annual reduction in the population growth rate, noting that the applicant's preferred methodology would result in a lower figure. The applicant concluded this would be indistinguishable from natural fluctuations in population.
- C.4.133 Taking account of the conservation objective to maintain the population of guillemot in the long term, the applicant concluded no project alone AEol from disturbance and displacement for all phases of the proposed development.
- C.4.134 Table 4 of NE's end of examination position [\[REP6-149\]](#) represented its view on the applicant's final calculations from [\[REP5-101\]](#), concluding a 0.2% reduction in growth rate for the FFC SPA guillemot for project alone effects. NE therefore agreed with the applicant's conclusion of no project alone AEol on this qualifying feature.
- C.4.135 The RSPB's final position on the guillemot qualifying feature of FFC SPA [\[REP5-160\]](#) was also that it agreed that there would be no project alone AEol on this qualifying feature.

Guillemot – disturbance and displacement – in-combination

- C.4.136 The applicant concluded a total of 69,552 individuals would be displaced from all OWFs. Based on 50% displacement and 1% mortality, this predicted 348 displacement mortalities, of which the proposed development would contribute 18.2, a 0.199% increase.
- C.4.137 Using NE's preferred methodology and taking account of its requested bespoke approach of assessing the impacts from Hornsea 4 using mortality rates between 1% and 10% [\[REP5-166\]](#), the applicant concluded [\[REP6-028\]](#) a 24.701% increase in baseline mortality against the most recent colony count. A PVA identified a reduction in colony growth of 1.7% but the applicant maintained that it considers NE's approach to be highly precautionary and noting that the current FFC SPA guillemot population to be growing at a rate of around 4% per year.
- C.4.138 The applicant concluded [\[REP6-028\]](#) that even assuming a worst-case annual reduction of 1.7%, population growth would be slowed, but would not cause the colony to go into decline and would be indistinguishable from natural fluctuations in population. The applicant therefore concluded that there would be no in-combination AEol from the proposed development.

- C.4.139 The approach to the assessment for guillemot continued to be amended throughout the examination, with the applicant providing updates to the RIAA and clarifications on the PVA to take account of NE's feedback on the application of the methodology. As described above, NE also noted some discrepancies in the values used for other windfarms in [\[REP5-101\]](#). NE's final submitted conclusions for guillemot were based on its own recalculations and its own rerun PVA, set out in Table 5 [\[REP6-149\]](#). This concluded a reduction in growth rate of 1.2% or 1.7% depending on the approach taken, with NE considering that the colony of guillemot at the FFC SPA would need to maintain a growth rate of 1.2% to 1.7% over the next 35 years in order to avoid the population declining, noting other uncertainties affecting population growth such as the impact of HPAI.
- C.4.140 As such, NE's close of examination position was that it considered that the proposed development would contribute significant numbers to the in-combination impacts on guillemot at the FFC SPA and therefore it could not exclude an in-combination AEoI on the guillemot qualifying feature at the FFC SPA. This also was the final position of the RSPB [\[REP5-160\]](#) following its review of the applicant's RIAA submitted at D4 [\[REP4-030\]](#).
- C.4.141 The examination highlighted a wide difference between the numbers of affected birds when using the applicant's approach, as opposed to NE's preferred method. The applicant commented [\[REP6-121\]](#) that it considered NE's approach to be highly precautionary and considered that it disproportionately increases the annual mortality rate calculations. The applicant continued to maintain [\[REP6-121\]](#) that its calculations for guillemot at the FFC SPA would result in displacement impacts that are indistinguishable from natural fluctuations in the population.

Razorbill – disturbance and displacement – project alone

- C.4.142 The applicant provided an assessment which addressed the potential for AEoI to the guillemot qualifying feature resulting from disturbance and displacement during all phases of the proposed development [\[AS1-095\]](#). Mortality was calculated using the applicant's approach, and both NE's standard and bespoke approaches. The relevant conservation objective is to maintain the population size recorded in the 2022 census data.
- C.4.143 As with the matters raised in relation to the FFC SPA guillemot, feedback in relevant representations led to the applicant's ORBA change request to reduce the impact on razorbill. The applicant's conclusions, set out in its RIAA with the ORBA in place [\[REP4-030\]](#) were updated as the examination progressed to take account of feedback on the methodology and apportioning approaches from NE.
- C.4.144 The applicant cites the latest colony population estimate (2022) for the FFC SPA to be 61,346 breeding adults. Across all bio-seasons, the applicant concludes 2,096.8 birds are apportioned to the FFC SPA using its own approach and, using NE's preferred approach, the number is 4,923 breeding adults.
- C.4.145 The total predicted consequent mortality is calculated by the applicant to be 5 birds (applicant's approach) or 35 using NE's preferred approach.
- C.4.146 Using the applicant's methodology and with the acceptance of the ORBA, the applicant calculated an annual increase in baseline mortality of 0.070% against the most recent colony count (0.203% considering the citation population). Considering NE's preferred approach, this equates to an increase in baseline mortality of 1.553% (citation population) or 0.535% considering the most recent colony count.

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- C.4.147 The applicant therefore did not carry out further PVA as the baseline mortality was less than 1% and concludes that this level of impact would be indistinguishable from natural fluctuations in population.
- C.4.148 For the operation and maintenance phase impacts, the applicant's methodology concluded an annual displacement mortality of 10.5 birds representing an increase of 0.472% against the citation population, 0.163% against the most recent colony count [[REP6-028](#)].
- C.4.149 Using NE's approach, the applicant concluded an increase in baseline mortality of 0.535% for construction and decommissioning effects. For the operation and maintenance phase, using NE's approach, the applicant concluded a total increase in baseline mortality of 3.106% (citation population) or 1.070% (recent colony count). This took account of NE's preferred approach of apportioning 100% of identified adult birds to the FFC SPA.
- C.4.150 Given the operation and maintenance outcomes identified an impact of greater than 1% using NE's methodology, the applicant carried out further Population Viability Analysis (PVA) [[REP4a-046](#)] which concluded that the level of impact would be indistinguishable from natural fluctuations in the population.
- C.4.151 In light of the conservation objective to maintain the population of razorbill in the long term, the applicant concluded no project alone AEoI from disturbance and displacement for all phases of the proposed development.
- C.4.152 This position was agreed with NE [[REP6-149](#)] and the RSPB [[REP5-160](#)].

Razorbill – disturbance and displacement – in-combination

- C.4.153 The applicant calculated a total of 18,949 birds would be displaced from all OWF with a displacement mortality of 94.7 individuals [[REP6-028](#)]. This represented a 4.268% increase in baseline mortality of which the proposed development would contribute 10.5 mortalities. This annual in-combination increase of baseline mortality would be 0.163% against the more recent count. Based on these outputs, the applicant concluded that the level of impact would be indistinguishable from natural population fluctuations and therefore, the applicant concluded that an in-combination AEoI could be excluded on razorbill.
- C.4.154 Using NE's preferred methodology (including the higher rate assigned to Hornsea 4 requested in [[REP5-166](#)]), the applicant concluded an increase of 426.5 individual bird mortalities, or 19.214% increase in baseline mortality (citation population) or 6.621% (recent colony count).
- C.4.155 The approach to the assessment for razorbill continued to be amended throughout the examination, with the applicant providing updates to the RIAA and clarifications on the PVA to take account of NE's feedback on the methodology. As described above, NE also noted some discrepancies in the values used for other windfarms in [[REP5-101](#)]. NE's final submitted conclusions for razorbill were based on its own recalculations and its own rerun PVA is set out in Table 7 [[REP6-149](#)]. This concluded a reduction in growth rate of 0.7% or 0.8% depending on the approach taken, with NE considering that the colony of razorbill at the FFC SPA would need to maintain a growth rate of 0.7% to 0.8% over the next 35 years in order to avoid the population declining. NE also noted that while the current growth rate was 6%, population trends at other razorbill colonies considered a population growth range of between 1 and 8% annually, noting other uncertainties such as the impact of HPAI

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and that productivity at colonies over the past 3 years had been the lowest on record since 2009.

- C.4.156 As such, NE's close of examination position was that it could not exclude an in-combination AEol on the razorbill qualifying feature at the FFC SPA. This was also the final position of the RSPB [\[REP5-160\]](#) following its review of the applicant's RIAA submitted at D4 [\[REP4-030\]](#).

Seabird assemblage

- C.4.157 The applicant concluded no AEol for the seabird assemblage qualifying feature both project alone and in-combination with other plans and projects for collision risk and disturbance and displacement effects. The RIES [\[PD-022\]](#) sets out that NE initially agreed to the conclusions of no project alone AEol for this qualifying feature, but had queried the contribution of the proposed development to in-combination effects. The RSPB also raised initial concerns relating to this qualifying feature [\[RR-056\]](#). The ExA therefore requested RIES Q.73 [\[PD-022\]](#), for both NE and the RSPB to confirm their positions following the applicant's updated D4 RIAA [\[REP4-030\]](#).
- C.4.158 In response, both NE [\[REP5-172\]](#) and the RSPB [\[REP5-160\]](#) confirmed that they considered there to be no project alone AEol on this qualifying feature. The RSPB commenting that with the declining population growth of puffin at the FFC SPA and the impact of other wind farms, that it considered there remained an in-combination AEol on this qualifying feature as a whole.
- C.4.159 NE noted [\[REP5-172\]](#) that it considered there to be an in-combination AEol on the kittiwake, guillemot and razorbill components of the seabird assemblage due to the additional impacts from the proposed development with other wind farms. It noted however that it would not require additional compensatory measures to be proposed for these components of the seabird qualifying feature.
- C.4.160 NE's summary position at the close of the examination [\[REP6-149\]](#) set out further its final position in relation to all the component species of the seabird assemblage qualifying feature, confirming that it was satisfied with the conclusion of no project alone AEol on this qualifying feature. It also noted that it considered the in-combination impacts predicted by the applicant would not result in any one species being lost to the assemblage, nor its diversity diminished. It also noted specifically that it considered that while the proposed development would "*exert a degree of pressure*" on the puffin population, that that effect was not enough to trigger an adverse effect on the seabird assemblage as a whole. Its position on the seabird assemblage therefore relates to its position on the qualifying species of the FFC SPA, namely, kittiwake, guillemot and razorbill.

Qualifying features for which the applicant concluded AEol cannot be excluded – kittiwake in-combination

- C.4.161 The applicant's RIAA [\[REP4-030\]](#) concluded that the proposed development would result in AEol to the Flamborough and Filey Coast SPA kittiwake qualifying feature from collision risk during the operation and maintenance phase, in-combination with other plans or projects. The applicant and NE both agree [\[RR-045\]](#) that a project alone AEol can be ruled out. The applicant predicted that the total number of kittiwake subject to collision mortality per annum for project alone effects would be 16 birds (15.5). In-combination with other plans and projects the applicant identified to be 434.3 birds, increasing baseline mortality by 3.337% across all bio-seasons per annum.

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- C.4.162 The applicant's conclusions were based on its worst-case scenario of predicted collisions from all projects considered in the assessment, including those additional projects requested by NE (see section C.4.8 above) and those that have compensated for impacts on the FFC SPA kittiwake. The applicant also concluded on its realistic worst-case scenario of excluding these projects that a 0.5% reduction in annual population growth would result and thus be unlikely to adversely affect the FFC SPA kittiwake population, noting other pressures on bird populations, such as sandeel availability.
- C.4.163 During the examination, the applicant updated its assessments to take account of the introduction of the ORBA, to clarify the numbers of affected birds and to address comments in relation to the assessment approach at the request of NE [\[RR-045\]](#)[\[REP3-070\]](#)[\[REP4-144\]](#) and [\[REP4-139\]](#). NE also noted that as kittiwake is also a component of the seabird assemblage qualifying feature at the FFC SPA [\[REP5-172\]](#), that it also could not exclude an in-combination AEoI for the kittiwake component of this qualifying feature.
- C.4.164 The RSPB [\[RR-056\]](#) considered initially that it was unable to reach a conclusion on the project alone kittiwake effects. On review of further submissions, including the updated RIAA [\[REP4-030\]](#), it confirmed it agreed with the applicant's conclusion of no AEoI for the project alone. However its position following the review remained that AEoI could not be excluded from in-combination effects [\[REP5-160\]](#) [\[REP6-099\]](#).
- C.4.165 Lincolnshire Wildlife Trust (LWT) [\[RR-036\]](#) also noted concerns over AEoI to the kittiwake qualifying feature of the FFC SPA but no further submissions or a response to the ExA's question RIES Q.68 [\[PD-022\]](#) were received from LWT during the course of the examination.
- C.4.166 Following NE's review of the D4 RIAA [\[REP4-030\]](#), it responded at D5 to confirm it was satisfied with the applicant's approach to apportioning for kittiwake [\[REP5-171\]](#), [\[REP5-166\]](#). Further matters were raised nevertheless in relation to how the applicant's AEoI conclusions were used to calculate appropriate levels of compensation for kittiwake, which are addressed in section C7 of this appendix.

The ExA's conclusions on Flamborough and Filey Coast SPA

- C.4.167 The ExA considers that sufficient information has been supplied in order to reach conclusions of both project alone and in-combination effects on the FFC SPA. Taking account of the discussions surrounding the approach to the methodology and noting agreement with NE and the RSPB (section C.4.26 to C.4.34 of this appendix), the ExA concludes that a project alone AEoI can be excluded for all qualifying features of the FFC SPA.
- C.4.168 In relation to the conclusions of in-combination AEoI, the ExA finds that an in-combination AEoI cannot be excluded for the razorbill and guillemot qualifying features (and guillemot, kittiwake and razorbill as part of the seabird assemblage qualifying feature). It also agrees with the applicant's conclusions that an in-combination AEoI cannot be excluded on the kittiwake qualifying feature.

Findings in relation to AEoI – subtidal and intertidal benthic ecology

- C.4.169 A description of each European site and its qualifying features assessed by the applicant is provided in section 3 of the applicant's HRA Screening Report [\[REP4-037\]](#). Potential effects resulting from the proposed development are provided in

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table 7.1 and described in sections 9 (project alone) and 10 (in combination) of the applicant's RIAA [REP4-030].

Subtidal and intertidal benthic ecology – Envision baseline data

- C.4.170 NE [RR-045] and throughout the examination raised concerns regarding the baseline data used to identify the presence of the *Sabellaria spinulosa* reef. The applicant reassessed its baseline information [PD1-071], however NE maintained its concerns on the methodology and the conclusions of the Envision baseline information [REP1-064]. At D3, NE provided [REP3-067], Appendix C2: A potential evidence-based approach to defining supporting habitats for *Sabellaria spinulosa* reef. This document provides advice on how Annex I *Sabellaria spinulosa* supporting processes including areas with conditions suitable for reef formation can be defined. NE advised this approach should be followed to ensure impacts would be mitigated and delivery of the conservation objectives would not be hindered.
- C.4.171 The applicant [REP4-108] acknowledged the advice in [REP3-067] but noted that this is the first instance of such supporting habitat information being presented to the offshore wind industry and for this project, late in the examination. The applicant also noted in [REP4-113] that NE confirmed within Appendix C1 [REP1-059] that the clarifications provided addressed its concerns regarding the analytical approach to the determination of Annex I *Sabellaria spinulosa* reef.
- C.4.172 The applicant provided further information at D3 [REP3-018][REP3-035]. Subsequently, NE [REP4-137] confirmed its agreement with the baseline results and conclusions. NE [REP4-108] also confirmed that its concerns relating to methods and analytical techniques used in determining extent and distribution of Annex I *Sabellaria spinulosa* throughout the offshore ECC had been addressed in [REP3-035].
- C.4.173 However, NE remained concerned about the baseline information and assessment relating to supporting habitat. The applicant provided the 'Sabellaria spinulosa Reef Supporting Habitat note' [REP4a-122] which was subsequently further updated [REP5-145] following further advice received from NE. NE [REP6-155] agreed on the extent of supporting habitat for Annex I *Sabellaria spinulosa* within the IDRBNR SAC to be 31.23km² which was impacted from the ECC. The unsigned draft final SoCG with NE [REP6-090] states that baseline information is agreed, however, it is the ExA's view that little consideration can be given to this document.
- C.4.174 The MMO [RR-042] also queried the reefiness scores and questioned the approach taken in the technical report. The applicant [PD1-071] provided further explanation of the results and decisions taken in relation to certain transects. It clarified its previous comments in [REP2-092]. The MMO [REP4-129] is content that its preferred approach appears to have been undertaken but did however request that the applicant provide the images of Annex I *Sabellaria spinulosa* aggregations in cases where they were observed at consecutive points along a transect for review. The applicant [REP3-037] confirmed the methodology undertaken in the re-analysis. The applicant confirmed [REP4-108] that in response to [REP2-092], it had provided stills from videos directly to the MMO for its consideration. The MMO [REP5-174] requested further information on the assessment of *Sabellaria spinulosa* reefiness using seafloor imagery to ensure robust interpretation of future surveys. [REP5-174] also sets out a number of clarifications it wanted to see on the images that were not fully resolved before the close of the examination, noting nevertheless that it was not a major concern and remaining concerns related to ensuring sufficient information was available to inform any post-decision discharge of relevant

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documents. The ExA is of the view that this information is being sought to inform future survey work and not to inform a conclusion on AEol.

- C.4.175 With respect to the provision of an appropriate evidence base to support the conclusions within the RIAA, the ExA is satisfied that sufficient data have been provided such that the assessment conclusions within the RIAA for benthic ecology can be considered to be based on a robust level of information.

Inner Dowsing Race Bank and North Ridge SAC (IDRBNR SAC)

- C.4.176 The applicant concluded no AEol in relation to all potential impact-pathways and qualifying features both alone and in-combination. This was disputed by NE throughout the examination. At the end of the examination, NE [\[REP6-155\]](#) set out that it could not rule out an AEol resulting from the following pathways:

- physical habitat loss/disturbance to Annex I Sandbanks and reef features included supporting habitat from the placement of cable protection and disturbance during construction (project alone)
- suspended sediment/deposition due to uncertainty of sediment transfer gradients across the site (project alone and in combination)
- changes to physical processes – reef and sandbanks due to uncertainties regarding seabed mobility. Recovery of bedforms and sediment transport gradients across the site (project alone and in combination).

- C.4.177 The examination of matters relating to IDRBNR SAC considered several over-arching matters that were relevant to the applicant's conclusions of no AEol on all impact-pathways. These are discussed below.

Crown Estate Round 4 Plan Level HRA

- C.4.178 NE [\[RR-045\]](#) queried whether the information presented by the applicant met the requirements of the Round 4 Plan Level HRA which requires developers to demonstrate that irreparable damage to qualifying features has been avoided. NE advised that it was unsure how the evidence presented to form conclusions for IDRBNR SAC at the project level HRA scale would align with the proposed development's commitments to conclusions of the plan level HRA for which it is committed to via the Agreement for Lease. This was explored through the examination, with the ExA, through the RIES Q.15 [\[PD-022\]](#) seeking further guidance from NE as to the information it required to satisfy itself on this point.
- C.4.179 In response, NE [\[REP5-172\]](#) stated that an AEol was not predicted on the IDRBNR SAC in the plan level HRA, due to avoidance of the site and sought further engagement with the Crown Estate on this matter. The applicant contested NE's interpretation of the plan level HRA conclusions [\[REP6-111\]](#). It explained that the cable route was not known at the time of the assessment undertaken for the plan-level HRA, and it was based on high level broad cable regions. The applicant goes on to state that *"The Crown Estate subsequently confirmed to the Applicant that the necessary requirements of the plan-level HRA had been satisfied to the satisfaction of The Crown Estate in June 2023 to enable an Agreement for Lease for the transmission assets to be entered into and this was completed on 17th October 2024"*.
- C.4.180 The ExA sought feedback from The Crown Estate on this matter [\[PD-028\]](#). The Crown Estate responded [\[REP6-137\]](#) that while the Agreement for Lease required

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the applicant to avoid irreparable damage to reef and sandbank features of IDRBNR SAC, that the plan-level HRA does not replace the need for a project level HRA nor pre-empt the conclusions of a project level assessment. The Crown Estate also supported the applicant's feedback in [\[REP6-111\]](#), in that the Crown Estate had confirmed with the applicant that the necessary requirements under the offshore wind Agreement for Lease had been met in this regard.

- C.4.181 On the basis of this information, noting the clarification from the Crown Estate on the relationship between the plan and project-level HRA conclusions, the ExA is satisfied that there are no concerns relating to the Agreement for Lease that the ExA need to consider in its recommendation to the SoS.

Worst Case Scenario (WCS)/ Maximum Design Scenario (MDS)

Removable cable protection

- C.4.182 NE [\[RR-045\]](#) requested that all cable protection used within the IDRBNR SAC be removed upon decommissioning and that the use of rock armour should be excluded within the IDRBNR SAC. The applicant made additional commitments to use removable cable protection on Annex I sandbank features of the IDRBNR SAC [\[REP4a-097\]](#) and to install removable cable protection on supporting habitat for Annex I *Sabellaria spinulosa* reef within the SAC [\[REP4a-097\]](#)[\[REP4a-105\]](#) and [\[REP4a-144\]](#). This was welcomed by NE [\[REP6-147\]](#). However, NE [\[REP6-147\]](#) continued to seek a commitment from the applicant to remove all cable protection within the IDRBNR SAC upon decommissioning whilst also noting a concern of potential damage to wider Annex I features through the removal of the rock protection [\[REP6-153\]](#). Furthermore, the ExA note NE [\[RR-045\]](#) that *Sabellaria spinulosa* may colonise the cable protection and whilst this is not a replacement of habitat, it may, following an operational period, question the removal of such cable protection. The commitment to remove cable protection was not secured in the final Outline CSIP [\[REP6-062\]](#). The final Outline CSIP did however include parameters for the worst-case scenario for cable protection required on supporting habitat for Annex I reef.
- C.4.183 The ExA notes the applicant's commitment to removable cable protection on qualifying features and supporting features of the IDRBNR SAC and NE's request for a commitment to be secured for this cable protection to be removed. The ExA does not agree with the need for the insertion of a commitment for this as this will be covered in a decommissioning plan and the ExA deem that there is some doubt as to whether, following the operational period, removal of the cable protection would be the best environmental option.

Requirement for a decommissioning plan

- C.4.184 Both the MMO [\[RR-042\]](#) and NE [\[RR-045\]](#) noted the lack of a decommissioning plan in the application documentation and NE set out the implications of this on the ability to determine a realistic WCS. The applicant responded [\[PD1-071\]](#), stating that a decommissioning programme would be developed and submitted to the SoS prior to construction and updated throughout the operational period of the proposed development. DCO Requirement 7 stipulates that offshore works must not commence until a decommissioning plan has been submitted to the SoS for approval.
- C.4.185 The applicant in [\[REP6-090\]](#) stated that in its view, it had explained why a decommissioning plan was not required and sought to clarify the activities included within the assessment undertaken. The lack of a decommissioning plan remained

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an outstanding matter at the close of examination with NE maintaining a concern of potential damage to wider Annex I features through the removal of the rock protection [REP6-153].

- C.4.186 The ExA notes the disagreement between NE and the applicant on the provision of a decommissioning plan having not been submitted with the application but acknowledges the requirement of NPS EN-3 for a decommissioning plan to be provided prior to the commencement of construction (DCO Requirement 7), therefore, not required at the time of application.

Post-construction activities

- C.4.187 NE's [REP1-064] raised concerns related to post-construction activities, with specific concerns over the laying of further cable protection within the SAC following the completion of the construction period. This concern remained throughout the examination. NE set out in [REP6-145] that, it, in agreement with the MMO proposed the following is included in the DCO/DML;

"21. No cable protection granted by this licence may be deployed within the IDRBNR SAC after the construction period has ended. Any cable protection to be installed outside of the IDRBNR SAC following completion of construction in locations where cable protection was not installed during construction must be deployed within 10 years of completion of construction, unless otherwise agreed by the MMO in writing."

- C.4.188 This is also referenced in NE's final Risk and Issues log [REP6-153]. The request for this information was echoed by the MMO [REP6-134]. This wording was not included in the final dDCO [REP6-009]. The drafting included by the applicant is as follows:

"Deployment of cable protection

21. Any cable protection to be installed following completion of construction in locations where cable protection was not installed during construction must be deployed within 10 years of completion of construction unless otherwise agreed by the MMO in writing".

- C.4.189 The ExA considers that the inclusion of condition 21 in the dDCO [REP6-009] would provide the commitment requested from NE relating works likely to be required within the construction period and limiting those to be undertaken outside of this period.
- C.4.190 The ExA is of a view that the insertion of the additional wording to condition 21 of the DCO/DML, as set out above, would go some way to satisfying concerns of NE and the MMO in relation to the placement of cable protection by clarifying the wording currently set out in the applicants dDCO [AS-042]. The ExA has inserted the wording above into the recommended DCO.

Securing amount (volume and area) of cable protection required

- C.4.191 In response to NE's concerns [RR-045] in relation to the WCS assessed, the applicant [PD1-071] confirmed that the reasonable WCS for cable protection has been considered and assessed, as detailed in Environmental Statement (ES) table 9.1 and sections 9.1.4.1 and 9.1.5.1 of the RIAA [AS1-095]. The applicant set out

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that the worst-case area of impact within the IDRBNR SAC would be 2,880m² (0.288 hectares) over each sandbank (North Ridge sandbank and the Inner Dowsing sandbank). The total worst-case maximum impact on sandbank qualifying features within the SAC would be 5,760 m² (0.576 hectares), which equates to 1.84% of the sandbanks feature within the SAC. It confirmed that the RIAA [\[AS1-095\]](#) considers both physical habitat loss and disturbance. The applicant also remained confident that materials deemed removable would be successfully removed upon decommissioning.

- C.4.192 The applicant [\[PD1-071\]](#) also stated that the final Scour Protection and Cable Protection Management Plan (SPCPMP) produced prior to construction would set out the final proposed volumes and areas of protection required, this would be in line with the outline SPCPMP [\[APP-295\]](#), secured in the dDCO. It stated that the WCS areas and volumes of cable protection are set out in the outline SPCPMP [\[APP-295\]](#). In response to a question from the ExA in ExQ1 HRA 1.5 [\[PD-013\]](#), NE [\[REP2-074\]](#) reiterated its request for the applicant to provide transparent evidence-based information on the WCS including any replenishment required, restating views on a preference for removable cable protection.
- C.4.193 The applicant [\[REP3-054\]](#) explained that the WCS is set out in the project description and broken down into areas of the SAC and that it was required to be placed over Annex I qualifying features. It further stated that the cable burial risk assessment would be revisited at pre-construction [\[APP-142\]](#) to inform the need for protection, noting NE's concerns regarding the potential to not be able to achieve required burial depths. The figures provided, it confirmed, included all cable protection for the lifetime of the project. It also noted the commitment to removable protection over sandbank qualifying features.
- C.4.194 The applicant submitted an Outline Cable Specification and Installation Plan (CSIP) at D4 [\[REP4-080\]](#), which provides a percentage of the cable length across the sandbank and non-sandbank areas within IDRBNR SAC where cable protection may be needed. NE's Risk and Issues Log at D5 [\[REP5-171\]](#) advises that a map should be provided identifying potential placement locations based on current understanding of the ground conditions. The applicant [\[REP4-113\]](#), maintained that a realistic WCS has been included in the assessment, and maintained this position throughout the remainder of the examination.
- C.4.195 Much of the disagreement in relation to the WCS assessment stemmed from a disagreement over the area of *Sabellaria spinulosa* and supporting habitat likely to be impacted by the proposed development. NE [\[REP4-137\]](#) stated that following further updates from the applicant, it was able to agree to the results and conclusions of the extent and distribution of *Sabellaria spinulosa* likely to be impacted by the proposed development. NE's Risks and Issues log submitted at D6 [\[REP6-153\]](#) noted agreement in relation to the assessment of supporting reef in the IDRBNR SAC and this is explained further in [\[REP6-155\]](#).
- C.4.196 NE [\[REP4-143\]](#) however sought further assessment, to ensure that all the phases of the project were fully assessed on each relevant feature. The applicant provided further information at D4a through the updated Chapter 7 Marine Physical Processes chapter [\[REP4a-029\]](#), including clarification that the assessment considers cable remedial burial and repair during the operation and maintenance (O&M) phases. NE following review of this information [\[REP5-171\]](#), noted this matter as resolved.

- C.4.197 Whilst agreement was reached in relation to the extent of supporting reef in the IDRBNR SAC that would overlap with the export cable. NE [\[REP6-155\]](#) disagreed with the applicant's figures of a footprint of 95.407.2m² with a volume of 33,292,52m³ which is a WCS of 20% with an additional contingency of 20% for installation and slippage. NE advised that it does not consider this to be a realistic WCS due to the difficulty of installing cables to a sufficient depth in the prevailing sediment type for this predominantly mixed sediment habitat. It sought a scale of 20%-100% to be used to determine compensation. NE provided figures for a range of percentages of cable protection required within the representation. NE [\[REP6 - 155\]](#) requested further information on how the length of transit for each cable through supporting habitat (16,562m each cable) was determined and requested a maximum of 6m width to be secured. Table 5.1 of the Outline CSIP sets out the calculation of the WCS for removable cable protection within areas of supporting habitat for Annex I reef. Whilst the width of 6m has not been secured, total footprint figures have been provided limiting the area for use.
- C.4.198 NE [\[REP6-153\]](#) at D6 provided updated wording in appendix A1 and C7 [\[REP6-145\]](#) and [\[REP6-147\]](#) for condition 21 of schedule 10 and 11 the DML and requested that the applicant provide the quantity (area and volume) of cable protection required on each IDRBNR SAC feature, remaining SAC, ECC outside the SAC interlink and array cables within the DCO/DML, linking this matter to that of securing a realistic WCS/MDS. This information has not been provided in the DCO or DML however it is noted that the outline SCPMP [\[REP6-076\]](#) and Outline CSIP [\[REP6-062\]](#) includes further detail on the WCS for cable protection on supporting habitat for Annex I *Sabellaria spinulosa* reef.
- C.4.199 Whilst the agreement in relation to the amount and location of cable protection required progressed through the examination, disagreement remained over the percentage of cable protection required with the applicant proposing 20% cable protections with an additional 20% contingency. NE was of the view, that up to 100% of the cable would require cable protection.
- C.4.200 The applicant sets out [\[REP6-104\]](#) that condition 13(1)(d)(iii), Part 2 of the deemed marine licence at schedule 11 of the dDCO [\[AS-042\]](#), requires details of scour protection and cable protection management in accordance with the SCPMP [\[REP6-076\]](#), to be submitted as part of the construction method statement for the approval of the MMO. The applicant states [\[REP6-104\]](#) that as NE has identified, the worst-case scenario (WCS) areas and volumes of cable protection are set out in the SCPMP and that any increase from those volumes would require further approval from the MMO and therefore all parties can have confidence that the volumes presented are appropriately secured.
- C.4.201 The issues raised by NE in relation to the WCS/MDS for cable protection have been aired in detail. The ExA is satisfied that that the WCS areas and volumes of cable protection and a requirement for the further submission of details are adequately secured via the wording of the SCPMP [\[REP6-076\]](#) and the Outline CSIP [\[REP6-062\]](#), which are certified documents in schedule 21 of the final dDCO [\[AS-042\]](#) and under the terms of condition 13 as part of the construction method statement. Furthermore, as discussed below, pre-construction surveys have been committed to, enabling this to be further refined if required. The ExA acknowledges disagreement in relation to the contingency figures provided by NE and the MMO.

Clearance activities

- C.4.202 NE [\[RR-045\]](#) raised concerns as to whether boulder clearance, UXO clearance, and/or pre-lay grapnel run activities had been considered in the MDS for increased suspended sediment concentration (SSC) and consequential changes to seabed level. It noted that the applicant should ensure that the MDS for all construction activities are assessed where they may alter SSCs and the seabed level. The applicant [\[REP4a-111\]](#) confirmed that these activities were considered within the anticipated cable activities. NE in response to questions in the RIES, RIES Q.40 [\[PD-022\]](#) in relation to these activities and the WCS/MDS seabed disturbance parameters stated that, *"The Applicant has stated that the impacts associated with boulder clearance, UXO clearance, and/or pre-lay grapnel run activities are all implicitly considered within the envelope of cable installation as presented within [\[APP-062\]](#). They have not been quantified in the marine processes impact assessment" [\[REP5-172\]](#).*
- C.4.203 The applicant in response [\[REP6-111\]](#) reiterated that boulder clearance, UXO clearance, and/or pre-lay grapnel run activities have been included in the assessment and taken forward into the RIAA [\[REP6-028\]](#), additionally highlighting the specific commitment, discussed above, in relation to boulder clearance. The ExA also notes that such activities are also covered by the outline CSIP [\[REP6-062\]](#) and therefore further details upon such activities are to be provide under schedule 21 of the final dDCO [\[AS-042\]](#) and condition 13, schedule 11 of the dDCO [\[AS-042\]](#) in consultation with the relevant bodies, including NE.
- C.4.204 The ExA is content that the information available has been assessed by the applicant. The detailed design of these measures has been secured by the control documents and condition 13, schedule 11 of the dDCO [\[AS-042\]](#) in consultation with the relevant bodies, including NE.

Habitat loss/disturbance

- C.4.205 Linked to the matters raised in relation to the WCS/MDS, NE [\[RR-045\]](#) advised that habitat loss/change to Annex I reef features had been underestimated as the assessment grouped this together with disturbance. In response to NE, the applicant, [\[PD1-071\]](#), set out figures that have been used in the WCS for the assessment and confirmed that the RIAA [\[AS1-095\]](#) considered both physical habitat loss and disturbance and that these have been assessed appropriately. It considered that an adequate level of detail on the sensitivity of the qualifying features to both disturbance and habitat loss is provided separately [\[PD1-071\]](#).
- C.4.206 The applicant remained confident that materials deemed removable are capable of being successfully removed. No further representations specifically noted issues with the adequacy of the assessment in relation to habitat loss and disturbance. The ExA sought further information from NE on this matter through questions in the RIES, RIES Q.19-23 [\[PD-022\]](#). NE reiterated its request for the assessment to be revisited, it also noted that its concerns related in particular to the supporting habitats for reef features and not just the reef itself. The applicant [\[REP6-111\]](#) confirmed that it had reviewed the assessment and concluded that the outstanding matter related to the presentation of the assessment and that the assessment itself fully assessed disturbance and loss. Furthermore, it went on to state that *"Natural England approved the Applicant's interpretation of the methodologies and the quantification of the supporting habitat area for S. spinulosa reef via email through DAS on 25th March 2025"*. The applicant also stated that the request for an assessment for supporting habitat for *Sabellaria spinulosa* was not identified by NE in pre-application consultation but at D3 in appendix C2 [\[REP3-067\]](#) and appendix C3 [\[REP3-068\]](#). At D6 [\[REP6-147\]](#) NE agreed to the area overlap between the area

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of ECC and the supporting habitat is 31.23km² however requested a realistic worst-case figure for the total area of cable protection predicted within Annex I supporting habitat being provided directly to NE by the applicant in advance of D6. Noting that this was raised in a representation submitted at D6, it is not clear as to whether NE has had sight of/or agreed with the table inserted into the SPCMP [REP6-076] and the Outline CSIP [REP6-062].

- C.4.207 The ExA considers that based on the amendments at D6 to the SPCMP [REP6-076] and the Outline CSIP [REP6-062] that include additional information on the parameters, this overcomes the concern relating the amount of supporting habitat to be disturbed. However, as this information ([REP6-147] by NE and [REP6-076] and [REP6-062] by the applicant) was submitted late in the examination, at D6, a formal view from IPs has not been provided. The SoS may wish therefore to consult the relevant IPs for their views.

‘Restore objective’ and recovery of qualifying features

- C.4.208 NE [RR-045] noted concerns that the lasting impacts of any future cable protection would not meet the ‘restore’ conservation objectives. The applicant confirmed that it has given weight to the restore objective of the IDRBNR SAC in the assessments in the RIAA [AS1-095]. The applicant considered that the recovery and maintenance of the qualifying feature would not be prevented by the proposed development, so the conclusion of no AEoI remained valid.
- C.4.209 The applicant [PD1-071] reiterated that the proposed development seeks to avoid any potential Annex I *Sabellaria spinulosa* qualifying features during construction following pre-construction surveys. It goes on to state that all available evidence demonstrates the absence of the Annex I reef qualifying feature within the ECC. Furthermore, it identified evidence regarding recovery time for Annex I *Sabellaria spinulosa* reef which demonstrates a rapid rate of recolonisation following winter storms. It goes on to state that evidence from the aggregates sectors suggests that recovery time for Annex I *Sabellaria spinulosa* community structure can range from 2 to 7 years depending on the intensity of dredging. The applicant concluded that it would avoid any identified Annex I *Sabellaria spinulosa* and deemed the qualifying feature to have a high recoverability and thus concluded no project alone AEoI. It is noted by NE [REP4-144] that the recovery of Annex I *Sabellaria spinulosa* as a concern is marked as purple, noting the comment as relevant to the DCO or DML however refers back to its previous comments relating to progress having been made and therefore the final position is unclear.
- C.4.210 At D5, NE [REP5-172] confirmed that its view remained unchanged. It went on to explain that removable cable protection from an environmental perspective has the *“potential for a layer of protection to remain, or a trench is created, and the interest feature is removed as well as the cable protection. Therefore, recovery is not guaranteed and less likely where rock armouring is placed as cable protection”*. As noted above, the applicant, during the examination committed to the exclusion of rock armour as a cable protection method in the IDRBNR SAC.
- C.4.211 The applicant [REP6-111] in response to comments relating to recovery and any further damage from cable protection removal, stated that in its view *“While the removal process is primarily an engineering operation, the removal of remedial protection is driven by environmental requirements. No trenching will occur, and the seabed beneath the mattresses will remain undisturbed. Due to the dynamic nature of the seabed, influenced by Holocene sediments, it is anticipated that the area will naturally recover to an equilibrium state within a short time frame (days to weeks).”*

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The applicant has provided updates to the RIAA [REP6-028] in relation to the analysis undertaken and a further commitment to cable protection in defined areas of supporting habitat, which it believes “*bolsters the existing conclusions of the assessment that there is no AEoI*”.

- C.4.212 NE [REP6-147] noted that the “*Secretary of State Decision for Norfolk Boreas, stated that even with the commitment to using removable cable protection and committing to removing said protection at the time of decommissioning, the impacts over the lifetime of the project, while the protection is in situ, were considered by the SoS to hinder the conservation objectives and have an adverse effect on integrity. Therefore, further consideration of the implications are required by the project*”.
- C.4.213 This matter remained outstanding at the close of the examination with NE [REP6-153] seeking further protection through the “*quantity (area and volume) of cable protection on each SAC feature, remaining area within the IDRBNR SAC, ECC outside SAC, interlink and array cables is secured either with the DCO/DML*”... “*or named plan such as the outline Scour Protection and Cable Protection Management Plan or the OOC*P” to be agreed with NE.
- C.4.214 Within its D6 representations, NE [REP6-147] states that while it agreed to the applicant’s commitment to removable cable protection, it considered that the removal of the cable protection on supporting habitat was not secured and thus that the ‘restore’ conservation objective for ‘supporting processes on which qualifying natural habitats and habitats of qualifying species rely’ would not be met. NE continued to advise therefore that a project alone AEoI could not be excluded to the Annex 1 reef and Annex 1 sandbank features of the SAC [REP6-147].
- C.4.215 The ExA notes the outstanding disagreement and explores the removal of cable protection below.

Placement and removal of protection

- C.4.216 NE [RR-045] requested the applicant to revisit the assessment and conclusions in relation to the placement of cable protection to make efforts to apply the mitigation hierarchy, noting it was unable to agree the conclusion of no AEoI to the conservation objectives of the Annex I Sandbank qualifying features of the IDRBNR SAC. The applicant [PD1-071] acknowledged the concerns raised in relation to the removal of cable protection (noted above) and highlighted the commitment to use removable cable protection over Annex I sandbank qualifying features in the IDRBNR SAC. The applicant also stated that this process, which would take place in the context of the wider hydrodynamic and sedimentary conditions, would not affect the conservation objectives of the SAC.
- C.4.217 NE [REP1-059] noted the applicant’s commitment to removable cable protection within the Annex I Sandbank qualifying feature of the IDRBNR SAC but requested that this be widened to the whole SAC. The applicant [REP2-053] stated that with the commitment to use removable cable protection within sandbank qualifying features enabled the potential for an AEoI on this qualifying feature of the IDRBNR SAC to be excluded beyond reasonable scientific doubt. NE [REP4-114] noted that in line with NE/JNCC guidance (2022) the applicant should endeavour to provide specific locations for cable protection placement within the SAC. This matter is linked to the view of NE in relation to Annex I reef features, in that, it advises as with other recently consented projects which propose to have similar ‘lasting’ impacts to that of the proposed development, that the conservation objectives of the site will be hindered by the project alone and therefore an AEoI cannot be excluded project

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alone and in combination. NE [\[REP5-171\]](#) queried again whether the use of removable cable protection would also be committed to for the non-sandbank features of the IDRBNR SAC.

- C.4.218 Whilst NE welcomed the commitment to use removable cable protection, it deemed that this would reduce the impact from permanent to lasting and therefore remained of the view that AEoI cannot be ruled out. [\[REP6-147\]](#) acknowledges that applicant's commitment to its use in areas of Annex 1 sandbank and supporting habitat for *Sabellaria spinulosa* Annex I reef. NE's risks and issues log [\[REP6-153\]](#) maintains the request that the applicant commit to removing all cable protection within the IDRBNR SAC.
- C.4.219 The ExA acknowledges that through the examination, the applicant committed to the use of removable cable protection on qualifying features and supporting habitat of Annex I reef features of the IDRBNR SAC and this is secured through the SPCMP [\[REP6-076\]](#) and the Outline CSIP [\[REP6-062\]](#). NE stated that the use of removable cable protection on qualifying features and supporting habitat reduced the impact on the IDRBNR SAC from permanent to lasting, a conclusion made on other offshore wind farms (OWF) projects. NE requested for this to be extended across the whole IDRBNR SAC, this was not agreed by the end of the examination.
- C.4.220 The ExA deem that the applicant has acknowledged NE's concerns and committed to, by the close of the examination, the use of removable cable protection on qualifying features and supporting habitat of the IDRBNR SAC. The ExA do not deem that NE have provided sufficient evidence to justify the extension of this commitment.

Impact on physical processes

- C.4.221 NE [\[RR-045\]](#) raised concerns regarding impacts on the IDRBNR SAC and other Annex I sandbanks as a result of modifications to seabed morphology during construction. This related to the impacts from the presence of cable protection and the need for cable protection as a result of cables becoming exposed. NE considered that evidence from Race Bank OWF should not be used as a proxy for recovery. The IDRBNR SAC sandbank qualifying features currently have a 'restore' target for their extent and distribution and maintain target for topography and volume attributes. NE advised that construction activities could result in significant changes to the extent, volume, and structure of important sandwave/sandbank systems within the array area and offshore ECC. As a result of existing impacts from Race Bank OWF on site integrity and site conservation objectives, NE does not agree that all marine physical processes receptors will be insensitive to this impact pathway.
- C.4.222 In response [\[PD1-071\]](#), the applicant noted that the evidence used from Race Bank OWF was suggested by NE during the evidence plan process during pre-application. As such, the applicant queried why evidence from Race Bank OWF is considered unsuitable noting that publication is also referenced in NE's documentation (Appendix C Annex 1). The applicant also noted that Appendix C Annex 1 also states that "*Natural England's experience suggests that complete regeneration is likely to occur on dynamic sandbanks systems, [but] there is a lack of evidence to suggest that this would be the case in more static sandbank systems*". The applicant is of the view that the sandbanks located within the IDRBNR SAC are not static features. The applicant confirmed that project design had taken place in line with the mitigation hierarchy.

- C.4.223 The applicant contended that the assessment is appropriate and provided further supporting evidence as part of a separate Project-specific Sandwave Levelling Assessment at D3 [REP3-047]. NE [REP4-136] responded to [REP3-047] noting that the report conclusions are similar to those of the Seabed Mobility Report [APP-152]. NE contended that there is no evidence that sandwave levelling in English benthic Marine Protected Areas (MPAs) has ensured that cables remain buried and therefore negated the need for cable protection. There is also limited evidence, in its view, on the timescales involved for sandwave recovery from sand wave clearance. A study at Race Bank OWF identified some infill within a few months and a trajectory towards full recovery a year after sandwave levelling but also noted full recovery was not observed. As a result of this, NE considered further bathymetric data was required as well as monitoring to be incorporated into the In-principle Monitoring Plan [APP-276].
- C.4.224 NE first raised this request in [RR-045] that sandbank monitoring for recovery should be included in the In-principle Monitoring Plan (IPMP) which the ExA understands to be the Outline Sandbank Compensation Implementation and Monitoring Plan [APP-245] to ensure that any mitigation is successful. The request was repeated at D3 [REP3-075] and D4 [REP4-144]. NE's [REP4-136] set out the survey work that NE deems necessary, pre-construction and following construction. The applicant considered that it is confident in the conclusions of the assessment, such that monitoring is unnecessary [PD1-071][REP4-113]. However, it also highlighted that post-construction monitoring is required under Condition 19 (2)(b), Part 2, Schedules 10 and 11 of the DCO, which required a full sea floor coverage swath-bathymetry survey (MGN654 compliant) and side-scan sonar of construction areas, which it states would include sandbanks. This was reiterated in [REP4-113].
- C.4.225 The ExA sought views, RIES Q. 25-27 [PD-022] from both NE and the applicant in relation to the evidence it considered should be used to base the understanding of recolonisation and recovery of sandbanks on, noting disagreements in the time periods and potential for recovery expressed by both parties. In response to questions, NE stated [REP5-172] that, as noted above, *"We advise as with other recently consented projects which propose to have similar 'lasting' impacts to that of ODOV that the conservation objectives of the site will be hindered by the project alone and therefore an Adverse Effect on Integrity cannot be excluded. Therefore, our advice provided within our Relevant and Written Representation [RR-045] remains unchanged."* This position remained unchanged up to the end of examination and is marked as a red matter in NE's final Risks and Issues Log [REP6-153].
- C.4.226 The ExA acknowledges disagreement between NE and the applicant in relation to recovery of sandbanks following cable laying and protection however also notes that the applicant has sought to address the concern relating to the uncertainty of effects through the commitment to monitoring. The ExA's view is that post-construction monitoring as required under Condition 19 (2)(b), Part 2, Schedules 10 and 11 of the DCO, goes some way to providing further data to address NE's concerns.

Presence of the ORCPs on physical processes

- C.4.227 NE [RR-045] identified concerns regarding the impact of the presence of the ORCPs on the IDRBNR SAC, noting the close proximity. Further information was requested from the applicant by NE to evidence the assessment conclusions in relation to changes to seabed morphology and modifications to the wave, tide, and sediment transport regimes due to the presence of the ORCPs. The applicant [PD1-071] explained that the original assessment included 2 ORCP areas; however

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changes to the WTG layout and introduction of the ORBA (discussed in section C.1.21 to C.1.27 of this appendix) removed the northern ORCP area. The applicant confirmed that these changes had not altered the conclusions of the RIAA. In relation to the Inner Dowsing Sandbank, the applicant states that evidence suggests that the migration of the Inner Dowsing sandbank outside the SAC boundaries is highly unlikely. The Seabed Mobility Report [APP-152] suggested that the direction of bedform migration makes it unlikely to interact with the ORCP area (both northern and southern ORCPs).

- C.4.228 NE [REP1-058] provided further information on its concerns relating to impacts on reduction in wave height, tidal flows and sediment transport, including the ORBA and Revision to the Offshore Export Cable Corridor Appendix B Blockage Modelling Results. This matter was listed as 'no change' in [REP4-114] and therefore the ExA sought further information through the RIES [PD-022]. NE responded [REP5-172] to explain that concerns regarding the impact of the presence of the two ORCPs in the (southern) ORCP area on the Inner Dowsing sandbank remained. It set out where information was, in its view, lacking and requested further information to inform its understanding of any morphological impacts to the Inner Dowsing sandbank.
- C.4.229 The applicant [REP6-111] maintained that updated modelling had been provided in [REP4a-029] which prior to submission was consulted upon and agreed with NE and other stakeholders. It further stated that those conclusions were supported by the sediment mobility results presented in Annex A [REP4a-029]. The applicant summarised the conclusions, noting that the removal of the Gravity Base Structure (GBS) option for the ORCP further reduces wave and hydrodynamic blockage impacts beyond that presented in the updated Chapter 7 Marine Physical Processes [REP4a-029]. The applicant did not agree that further information is required or that the provision of further information would change the conclusions.
- C.4.230 NE [REP6-159] summarised that the applicant's evidence demonstrates that sandbanks in the west of the IDRBNSR SAC are advancing west towards the ORCP location. It set out that this rate of migration is estimated as ranging from 10-60m during construction, 100-490m during the initial operation period (25 years) and 170-840m during the extended operational period (45 years). NE conclude that *"further consideration needs to be given to the potential effect of sandbank migration, and significant seabed elevation changes at the ORCP area in terms of asset integrity. Conversely, consideration also needs to be given to the potential effect of the ORCP structures interacting with the migrating sandbank-sandwave system"*.
- C.4.231 At the close of examination, NE [REP6-159] remained of the view that more detailed bathymetric and modelling data is required for the ORCP and IDRBNSR SAC area to understand the scale and extent of the potential changes to the wave, tidal current and sediment transport regimes. NE is also of the view that such matter should not be considered project alone, but also in-combination. This was marked as a red matter in NE's D6 Risks and Issues log [REP6-153].
- C.4.232 The ExA, acknowledges the information before it on this matter and notes the agreed benefit of removal of the use of GBS foundations and one of the ORCPs. Furthermore, as noted above, the applicant has committed to construction monitoring for sandwave/sandbank recovery under Condition 19 (2)(b), Part 2, Schedules 10 and 11 of the DCO, which requires a full sea floor coverage swath-bathymetry survey (MGN654 compliant) and side-scan sonar of construction areas, which it states would include sandbanks. Despite this, NE remain of a view that more data is required along with further consideration of effects in-combination.

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Seabed scouring from secondary scour impacts

- C.4.233 NE [\[RR-045\]](#) noted the potential for scour or secondary scour and the removal of seabed sediments as a result of the presence of cable/ scour protection measures and /or cable exposures. NE requested that these be assessed. The applicant [\[PD1-071\]](#) explained that there was a lack of numerical data on the likelihood of these impacts occurring. It demonstrated evidence from Hornsea One OWF that secondary scour is on a smaller scale than scour observed without cable protection. NE [\[REP2-074\]](#) acknowledged the lack of numerical evidence and the use of Hornsea One as a suitable analogue for effects but queried how far seabed mobility across the Hornsea One site compares with the areas of high mobility at Outer Dowsing and particularly the layout included in the ORBA. The applicant in its comments on responses to ExQ1 [\[REP3-054\]](#), noted that Hornsea One was appropriate due to similar hydrodynamic forcing and ground conditions.
- C.4.234 NE [\[REP4-143\]](#) responded that it remained concerned about the potential for significant risk to both marine process receptors and asset integrity in terms of seabed scour as a result of the highly mobile seabed conditions across the study area. Its notes that as scouring around GBS or suction caisson is not well understood, post construction monitoring is required. This representation referred to ES conclusions.
- C.4.235 The ExA through the RIES sought confirmation from NE as to whether comments made by NE [\[REP4-143\]](#) related to an EIA or HRA matter. It noted [\[REP5-172\]](#) that comments in [\[REP4-143\]](#) relate to EIA matters however “*secondary scour impacts and any associated remedial actions could affect Annex I benthic ecological receptors which would make this an HRA matter also*”. Therefore, it did not confirm that this was an HRA matter. The applicant [\[REP6-111\]](#) reiterated its commitment to avoiding construction across any recorded areas of *Sabellaria spinulosa* reef across the Offshore ECC. Furthermore, “*it is anticipated that where infrastructure is developed there will a separation buffer from sensitive features, which is to be agreed during the post-consent process*” [\[REP6-111\]](#) through pre-construction surveys.
- C.4.236 The applicant committed through the updated IPMP [\[REP4a-074\]](#) to monitor scour. NE considered that monitoring and adaptive management measures were required [\[REP5-171\]](#). As stated above, NE advised this was needed to validate the HRA conclusions on recoverability. This matter was noted by NE [\[REP6-153\]](#) as unchanged at D6, noting a remaining disagreement.
- C.4.237 The ExA despite efforts to clarify whether this matter related to HRA impacts, received the response that it ‘*could affect Annex I benthic ecological receptors which would make it an HRA issue*’ but without further clarification through representations on level, duration or receptors impacts. Based on this, the ExA does not believe that this can be considered as an HRA matter.

Pre-construction surveys

- C.4.238 The MMO [\[RR-042\]](#) raised concerns that future geophysical surveys would not detect potential Annex I *Sabellaria spinulosa* reef and sought clarification on how any pre-construction surveys would identify reef to avoid by micro-siting. It set out its preferred methodology. At the end to the examination, the MMO noted that the overall approach outlined for the pre-construction survey of habitats of principal importance or Annex I habitats, such as *Sabellaria spinulosa* reef, is appropriate and aligns with best practice.

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C.4.239 NE raised similar concerns [RR-045], the applicant [PD1-071], in response stated that table 3.2 of the ES Offshore IPMP [APP-276] included a commitment to pre-construction surveys due to the ephemeral nature of Annex I Sabellaria spinulosa. NE's concerns [REP6-147] related to the ability to microsite.

C.4.240 Matters pertaining to the identification of qualifying features and supporting habitat, as discussed above, evolved during the examination. As such, the ExA notes the applicant's commitment pre and post construction surveys in agreement with the MMO under Conditions 17 (2), 19 (2)(b), Part 2, Schedules 10 and 11 of the DCO, noting the ephemeral nature of the qualifying features. The ExA concludes that these surveys satisfy the concerns of the MMO and NE.

Mitigation and monitoring

C.4.241 The applicant identified mitigation measures in RIAA section 6, table 6.1 [REP6-028]. The applicant's Schedule of Mitigation [REP6-074] identifies the plans that would implement the mitigation in the applicant's conclusions on assessment of AEoI.

C.4.242 The matter of mitigation was related to the ongoing discussions between notably the applicant, NE and the MMO in determining the WCS/ MDS and impacts on the IDRBNSR SAC Annex I sandbank and reef features and supporting habitats. Parties noted that until the WCS/ MDS was agreed, mitigation measures were unknown.

Boulder relocation

C.4.243 NE [RR-045] queried the process for boulder clearance and repositioning within the IDRBNSR SAC to minimise impacts. This was explored through the examination through the use of commitments in Outline SCPMP [REP6-076] and Outline Cable Specification Installation Plan (CSIP) [REP6-062] to microsite boulders around biogenic reef. The applicant [REP2-051] concluded that the commitment to place boulders in a similar habitat type would ensure no significant change to marine physical processes and also replicate the structure and function of the qualifying feature. NE [REP5-172] agreed that mitigation surrounding boulder clearance set out in the outline CSIP [REP4a-097] resolved its concerns.

Micro-siting

C.4.244 NE [RR-045] also noted its disagreement in relation to Annex I Sabellaria spinulosa recovery and did not consider micro-siting mitigation 'where possible' provided the required assurance. The applicant [PD1-071] recognised a likely impasse on this point. The applicant remained confident of the absence of Annex I reef features in the ECC and deemed that this, with additional mitigation to avoid any reef, meant that an AEoI on this feature of the IDRBNSR SAC could be excluded. NE [REP6-147] continued to raise concerns relating to this and requested that "Where avoidance of Annex I habitats during construction is not practicable, outside of IDRBNSR SAC and within 12nm under NERC, 2006 Section 41 Priority habitat then there should be a requirement to demonstrate how impacts have been minimised. Should Annex I Reef within IDRBNSR SAC be identified in pre-construction surveys and cannot be micrositied for, this will be an AEoI to IDRBNSR SAC and require compensation in line with our final advice".

Sandbank monitoring

C.4.245 As discussed above, NE [RR-045] also requested sandbank monitoring for recovery (as noted above) to be included in the IPMP, which the ExA understands to be the

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Outline Sandbank Compensation Implementation and Monitoring Plan [APP-24RIES5] to ensure that any mitigation is successful. The ExA queried RIES Q.24 [PD-022] the role of Schedules 10 and 11, Part 2, condition 19 (2)(b), of the DCO, which NE [REP5-172] acknowledged did secure post-construction monitoring. However, it also noted that the IPMP secures specific monitoring requirements to test ES hypotheses. To inform this, NE requested further data be collected and for monitoring to take place until full recovery of the seabed has occurred and agreed with the relevant ANCBs. The final unsigned SOCG on Benthic and Intertidal ecology [REP6-090] requests benthic hypotheses are updated and adaptive mitigation secured. This does not appear to be an agreed position as this matter is a tracked change. It is the ExA's view that little consideration can be given to this document.

- C.4.246 The ExA therefore, whilst content with the securing of commitments through the conditions set out above, acknowledge that matters relating to detail remain outstanding with NE. The wording as drafted in the DCO requires survey undertaking to receive written approval from the MMO with written approval from relevant statutory nature conservation bodies. As such, the ExA conclude that this mechanism as drafted provides opportunity for such details to be secured post-consent.

Disposal of dredged material and use of a fallpipe

- C.4.247 NE [RR-045] requested locations of dredged material disposal to be agreed as part of the consenting process. NE requested this to be upstream of the sandbank qualifying features to assist recovery as well as 50m of priority habitats. The applicant [PD1-071] confirmed that the whole of the IDRBNR SAC has been assessed for the use of disposal activities. The Cable Specification and Installation Plan [APP-278] secures that material dredged within the site will be disposed of within the site in an area of similar sediment characteristics. The applicant confirmed [PD1-071] proposed mitigation relating to the use of pre-construction surveys to identify reef features and enable micro-siting of infrastructure includes *Sabellaria spinulosa*, as set out in sections 3 and 4 of the outline Biogenic Reef Mitigation Plan [PD1-066]. A Disposal Site Characterisation Report has been submitted to the MMO and to the examination [PD1-097]. NE reviewed [PD1-097] and reiterated its request [REP1-059] for the addition of the use of a fallpipe. This was not raised through deadlines D2 or D3, however at D4, the applicant reiterated comments above, confirming mitigation secured in the outline Cable Specification and Installation Plan [REP4-082] and outline PEMP [APP-277].

- C.4.248 In response to questions from the ExA, RIES Q.32 [PD-022], the applicant confirmed [REP5-149] that the Outline CSIP [REP5-117] had been updated at D5 to include the following commitment:

"In the event that disposal of dredged sediment (associated with seabed preparation works or cable installation) is required, material will be deposited, upstream, within an area of similar sediment characteristics, in close proximity to the dredge location, in order to retain sediment within the sediment transport system."

- C.4.249 It went on to state it was unable to commit to the use of a fallpipe, due to its applicability being reliant on a number of factors, including environmental constraints, which it set out by way of explanation, would not be determined until post consent. It also noted that the use of a rigid fall pipe may have negative consequences and is likely to lengthen offshore working time.

- C.4.250 NE [REP5-171] noted this matter as resolved in relation to the commitment in [REP5-116] relating to the disposal of dredged material. The ExA sought further confirmation in relation to NE's view on the use of a fallpipe [PD-028]. NE advised [REP6-155] that its view was unchanged and that the applicant in the Five Estuaries OWF examination had committed to the use of a fallpipe/ longpipe when depositing sediment within Margate and Long Sands SAC. Without this commitment, NE advises that sandwave levelling as a mitigation measure is likely to have HRA issues in its own right however did not provide justification for this statement. This matter was unresolved at the close of examination.
- C.4.251 The ExA conclude that through the examination, the applicant made a number of changes to the DCO/DML and control documents to clarify and include additional mitigation and monitoring measures for the disposal and placement of dredged material. It is acknowledged that at the close of the examination, disagreements remained in relation to whether these satisfied all requests made by IPs however, the ExA recognises that progress was made through collaborative working. The use of a fallpipe remained unresolved, despite the ExA seeking to progress this matter and with NE noting the potential for this in itself to have HRA implications.
- C.4.252 The ExA considers that based on the information before it, matters were progressed as far as possible in the examination. However, as this information, [REP6-155] from NE, was submitted late in the examination, at D6, a formal view from the applicant has not been provided. The SoS may wish, therefore to consult the relevant IPs and the applicant for their views.

Conservation objectives

- C.4.253 As noted above in relation to the ability of qualifying features to recover, during the examination, there were disagreements between the applicant and NE as to which features of the IDRBNR SAC conservation objectives apply. NE raised at D3 in appendix C3 [REP3-068] that:

"IDRBNR SAC conservation objectives apply to the site and the habitats for which the site has been designated namely Annex I Sandbanks which are slightly covered by seawater all the time and Annex I Reef (the "Qualifying features").

The objectives are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the Favourable Conservation Status of its qualifying features, by maintaining or restoring:

- *the extent and distribution of qualifying natural habitats and habitats of the qualifying species*
- *the structure and function (including typical species) of qualifying natural habitats • the structure and function of the habitats of the qualifying species*
- *the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely**
- *the populations of each of the qualifying species*
- *the distribution of qualifying species within the site"*

*emphasis added by NE

- C.4.254 NE highlighted that the objective *"the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely"* related to the protection

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and restoration of supporting habitats. NE produced appendix C2 [REP3-067]: ‘A Potential Evidence-based Approach to Defining Supporting Habitats for Sabellaria Spinulosa Reef’ setting out the physical and biological process which, based on its current understanding, are required for reef formation. [REP3-067] highlights that favourable ground conditions are essential for reef development for which there exist a number of current pressures. NE’s view is that any further loss in supporting habitat would hinder the ‘restore’ objective.

- C.4.255 The applicant [REP5-146] responded to the note summarising the position of NE and to define areas which, with the agreement of NE, removable cable protection could be deployed. This report built upon an initial report [REP4a-122] and incorporates NE’s comments from the Discretionary Advice Service (DAS) on that initial report. It concludes that:

“The Applicant maintains that the conservation objectives of the SAC do not require that habitats with the potential to support designated habitats receive the same level of protection as the designated habitats themselves. While the conservation objective focuses on maintaining and restoring the supporting processes necessary for qualifying habitats, it is not justified to interpret this as a requirement to preserve all habitats within the SAC that could develop into Annex I reef at some undefined time, as if they were reef features themselves. Notwithstanding this position, the Applicant has committed to the installation of removeable cable protection on the defined areas of supporting habitat for S. spinulosa reef identified in Figure 1. This commitment is detailed within the Outline Scour and Cable Protection Management Plan (8.21) and in the Outline Cable Specification and Installation Plan (8.5), secured under condition 13(1)(d), Part 2, Schedule 11 of the DCO”.

- C.4.256 The applicant updated the Sabellaria Spinulosa Reef Supporting Habitat Technical Note [REP6-106] which included the wider commitment to the use of removable cable protection in areas potentially suitable for supporting Sabellaria spinulosa reef where the IDRBNR SAC and the offshore ECC intersect. It also included the WCS for the amount of removable cable protection required. NE [REP6-147] stated that it does not agree with the Applicant’s conclusion as set out in Section 3 Para 18 [REP5-146], stating that it agreed that the commitment to remove all cable protection “demonstrates adoption of the mitigation hierarchy in minimising the impacts; it does not secure the removal of the cable protection and nor does it avoid hindering the conservation objectives for the site to restore ‘the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely’. Therefore, we continue to advise an Adverse Effect on Integrity alone cannot be excluded to both the Annex I reef and Annex I Sandbank feature of the IDRBNR SAC”.

- C.4.257 This matter remained unresolved at the close of the examination.

- C.4.258 The applicant remained confident that, based on all data at application submission, and confirmed through additional studies [PD1-098] the absence of any qualifying Annex I reef qualifying features within the offshore ECC. Furthermore, additional mitigation had been secured to avoid any reef which may consequently form, therefore, in its view, the potential for an AEol on this qualifying feature of the IDRBNR SAC can be excluded beyond reasonable scientific doubt.

- C.4.259 The ExA has considered views from both NE and the applicant along with the site boundary description. The ExA, whilst noting NE’s request during the examination for removable cable protection to be used across the whole IDRBNR SAC, has not taken this as NE requesting here for the whole SAC to be seen as supporting

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habitat. It is the ExA's understanding that NE seeks the supporting habitat for the qualifying features to be considered as those covered by the restore objective of the conservation objective. Noting the original site designation includes buffers around qualifying features as having been used to determine the SAC boundary, the restore objective may or may not extend to the whole IDRBNR SAC. The ExA agrees with the view of the applicant that the restore objective should not be applied to any habitat with the potential to support the qualifying feature and agrees with this. The ExA does not understand this to be NE's request, however, also agrees with NE that the objective should apply to the qualifying feature and its supporting habitat where there is evidence that it is current supporting habitat.

The ExA's conclusions on IDRBNR SAC

- C.4.260 The ExA notes that in relation to AEoI on the IDRBNR SAC, the applicant concluded no AEoI in relation to all potential pathways alone and in-combination. This conclusion was disputed by NE. At the close of the examination, NE [\[REP6-155\]](#) concluded it could not exclude an AEoI either alone or in-combination with other plans and projects in relation to the following pathways:
- Physical habitat loss/disturbance - Annex I Sandbanks and reef features included supporting habitat from the placement of cable protection and disturbance during construction (project alone)
 - Suspended sediment /deposition - Annex I Sandbanks and reef features due to uncertainty of sediment transfer gradients across the site (project alone and in-combination)
 - Changes to physical processes – Annex I Sandbanks and reef features due to uncertainties regarding seabed mobility. Recovery of bedforms and sediment transport gradients across the site (project alone and in-combination).
- C.4.261 The ExA notes the applicant's commitment to removable cable protection on qualifying features and supporting features of the IDRBNR SAC and NE's request for this to be extended across the whole IDRBNR SAC area. The ExA does not agree that this commitment should be applied across the whole IDRBNR SAC, as NE requests.
- C.4.262 The ExA is of a view that the insertion of the additional wording to condition 21 of the DCO/DML, as set out above, would go some way to satisfying the concerns of NE and the MMO in relation to the placement of cable protection by clarifying the wording currently set out in the applicant's dDCO [\[AS-042\]](#). The ExA has inserted the wording above into the recommended DCO.
- C.4.263 The ExA notes the disagreement between NE and the applicant on the provision of a decommissioning plan having not been submitted with the application. However, the ExA is aware that NPS EN-3 requires a decommissioning plan to be provided prior to the commencement of construction, and therefore the ExA considers that this would not be required at the time of the application.
- C.4.264 The ExA understands that agreement was reached through the examination on the area of *Sabellaria spinulosa* Annex I reef supporting habitat likely to be impacted by the ECC. The ExA considers that based on the amendments at D6 to the SPCMP [\[REP6-076\]](#) and the Outline CSIP [\[REP6-062\]](#) to include additional information on the parameters, this overcomes the concern relating to the amount of supporting habitat to be disturbed. However, as this information ([\[REP6-147\]](#) by NE and [\[REP6-076\]](#) and [\[REP6-062\]](#) by the applicant) was submitted late in the

examination, at D6, a formal view from IPs has not been provided. The SoS may wish, therefore to consult the relevant IPs for their views.

- C.4.265 The ExA acknowledges the areas of impact for the proposed development on qualifying features is not agreed.
- C.4.266 The issues raised by NE in relation to the WCS/MDS for cable protection have been aired in detail. The ExA is satisfied that the WCS areas and volumes of cable protection and a requirement for the further submission of details are adequately secured via the wording of the SPCPMP [REP6-076] and the Outline CSIP [REP6-062], which are certified documents in Schedule 21 of the final dDCO [AS-042] and under the terms of Condition 13 as part of the construction method statement. Furthermore, as discussed above, pre-construction surveys have been committed to, enabling this to be further refined if required. The ExA acknowledges disagreement in relation to the contingency figures provided by NE and the MMO.
- C.4.267 The ExA is content that the information available has been assessed by the applicant. The detailed design of these measures has been secured by the control documents and condition 13, schedule 11 of the dDCO [AS-042] in consultation with the relevant bodies, including NE.
- C.4.268 The ExA acknowledges that through the examination, the applicant committed to the use of removable cable protection on qualifying features and supporting habitat of Annex I reef features of the IDRBNR SAC and this is secured through the SPCPMP [REP6-076] and the Outline CSIP [REP6-062]. The ExA notes NE's view that the use of removable cable protection reduced the impact on the IDRBNR SAC from permanent to lasting, a conclusion made on other OWF projects.
- C.4.269 The ExA acknowledges disagreement between NE and the applicant in relation to recovery of sandbanks following cable laying and protection however also notes that the applicant has sought to address the concern relating to the uncertainty of effects through the commitment to monitoring. The ExA's concludes that post-construction monitoring as required under Condition 19 (2)(b), Part 2, Schedules 10 and 11 of the DCO, goes some way to providing further data to address NE's concerns
- C.4.270 The ExA notes the agreed benefit of removal of the use of GBS foundations and one of the ORCPs. Furthermore, as stated above, the applicant has committed to construction monitoring for sandwave/sandbank recovery under Condition 19 (2)(b), Part 2, Schedules 10 and 11 of the DCO, which requires a full sea floor coverage swath-bathymetry survey (MGN654 compliant) and side-scan sonar of construction areas, which it states would include sandbanks. However noting the final positions provided by NE at D6, which the applicant was unable to respond to, the ExA does not have sufficient clarity within the information before it to conclude no AEoI on the sandbank features from physical processes.
- C.4.271 The ExA despite efforts to clarify whether this matter related to HRA impacts, received the response that it "*could affect Annex I benthic ecological receptors which would make it an HRA issue*" but without further clarification through representations on level, duration or receptors impacts. Based on this, the ExA does not believe that this can be considered as an HRA matter. The ExA concludes that the applicant's commitment to pre-construction surveys (noting the ephemeral nature of the qualifying features) satisfies the concerns of NE and the MMO.
- C.4.272 The applicant made a number of changes to the DCO/DML and control documents to clarify and include additional mitigation and monitoring measures for the disposal

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and placement of dredged material. It is acknowledged that at the close of the examination, disagreements remained in relation to whether these satisfied all requests made by IPs, however, the ExA recognises that progress was made through collaborative working. The use of a fallpipe remained unresolved, despite the ExA seeking to progress this matter and with NE noting the potential for this in itself to have HRA implications.

- C.4.273 In relation to the applicability of conservation objectives, the ExA agrees with the applicant that the restore objective should not be applied to any habitat with the potential to support the qualifying feature. The ExA does not understand this to be NE's request. The ExA agrees with NE that the objective should apply to the qualifying feature and its supporting habitat as shown by evidence as being current supporting habitat.
- C.4.274 The ExA conclude that through the examination, the applicant made a number of changes to the DCO/DML and control documents to clarify and include additional mitigation and monitoring measures. It is acknowledged that at the close of the examination, disagreements remained in relation to whether these satisfied all requests made by IPs. However, the ExA recognises that progress was made through collaborative working.

The ExA's conclusions on physical habitat loss/disturbance (project alone)

- C.4.275 The ExA agrees with NE that AEoI on the physical habitat loss/disturbance of Annex I sandbanks and reef features including supporting habitat during construction (project alone) cannot be ruled out. The ExA notes the measures that the applicant has secured through the application and examination to limit this impact. However, the ExA does not consider this enables a conclusion beyond reasonable scientific doubt that an AEoI on the sandbank and Annex I features of the IDRBNR SAC can be ruled out. In terms of the amount of cable protection required, the ExA do not consider NE to have provided clear evidence to demonstrate the need for more than 20% cable protection plus a 20% contingency as assessed by the applicant. It is noted that this does not prevent the applicant from laying further cable protection but that this would require further permission and agreement from the MMO.

The ExA's conclusions on suspended sediment /deposition due to uncertainty of sediment transfer gradients across the site (project alone and in-combination)

- C.4.276 The ExA acknowledges that at the close of the examination, NE [\[REP6-153\]](#) remained of the view that the MDS parameters for the construction assessment for suspended sediment concentration had still not been provided to enable it to agree to the applicant's conclusions. Furthermore, the commitment to the use of a fallpipe was not agreed, which NE determined as having the potential to being a HRA matter in its own right.
- C.4.277 As a result, the ExA is unable to rule out an AEoI on the Annex I Sandbanks and reef features of the IDRBNR SAC (project-alone and in-combination). The ExA notes NE's statement that not using a fallpipe could in itself give rise to HRA effects however no further information from NE was provided to enable the ExA to take a view on this. Furthermore, matters remained outstanding on the MDS/WCS information provided to NE. These matters could be clarified if the SoS wishes.

The ExA's conclusions on changes to physical processes – reef and sandbanks due to uncertainties regarding seabed mobility. Recovery of

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bedforms and sediment transport gradients across the site (project alone and in-combination).

- C.4.278 The ExA notes NE's concerns in relation to changes to physical processes on Annex I Sandbanks and reef features of the IDRBNR SAC due to uncertainties regarding seabed mobility, recovery of bedforms and sediment transport gradients across the site (project alone and in-combination).
- C.4.279 The ExA acknowledges the disagreements that were raised through the examination in relation to seabed mobility and recovery with comparisons being made to past observations by IPs and the applicant. The applicant confirmed its assumptions and MDS/WCS in its assessment, furthermore, an ORCP was removed and a commitment made to not use GBS foundations. The applicant provided further information to the examination such as the Sandwave Levelling Study [\[REP3-047\]](#) which it stated did not alter the conclusions of the assessment. It has also committed to the use of pre and post-construction surveys and monitoring secured through the outline SCPCP [\[REP6-076\]](#) and the outline CSIP [\[REP6-062\]](#). The ExA also recognise concerns raised by NE at D6 [\[REP-157\]](#) in relation to the need for further information, discussed above.
- C.4.280 The ExA, having considered the information before it is of a view that the proposed development is unlikely to result in any sandbank within the IDRBNR moving beyond the boundaries of the IDRBNR SAC, however there is uncertainty in relation to this and the applicant has been unable to respond to NE's [\[REP6-159\]](#). The SoS could seek views of the applicant if it wishes. Reviewing the evidence before it however, the ExA concludes that due to inherent uncertainties in recovery of bedforms and sediment transport, it is unable to rule out AEol on reefs and sandbanks from this pathway for the IDRBNR SAC (project-alone and in-combination).

North Norfolk Sandbanks and Saturn Reef SAC

- C.4.281 The applicant concluded no AEol on the SAC from all potential effect pathways listed above, both alone or in-combination with other plans and projects. This conclusion was not identified as an area of concern during the examination. However, it was noted that NE [\[REP5-172\]](#), in response to the RIES, replicated table A.1 to annex 1 of the RIES and flagged that it was not in agreement with the applicant's conclusions in respect of the pathways of 'suspended sediment/deposition' and 'changes to physical processes' for this SAC. The applicant also responded on this observation in its response to comments on the RIES [\[REP6-111\]](#), noting that this was the first reference to disagreement for this SAC and the impact pathways. However, NE [\[REP6-155\]](#) subsequently confirmed in Appendix K4 within its response to the Rule 17 issued by the ExA [\[PD-028\]](#), that it agreed with the applicant's conclusion of no AEol for this SAC and that the table provided in [\[REP6-155\]](#) superseded that included previously at D5 [\[REP5-172\]](#).
- C.4.282 The ExA therefore note this matter as resolved.

The Wash and North Norfolk Coast (WNNC) SAC

- C.4.283 The applicant concluded no AEol in relation to all potential impact-pathways and qualifying features alone and in-combination. This was disputed by NE throughout the examination. At the end of the examination, NE [\[REP6-155\]](#) set out that it could not rule out an AEol in-combination resulting from the following pathway:

- changes to physical processes –reefs and sandbanks which are slightly covered by sea water all of the time

C.4.284 NE [\[RR-045\]](#) stated that it was unable to rule out impacts to the Annex I sandbanks of the Wash and North Norfolk Coast SAC, The Wash SPA and The Wash Ramsar site. This is due to potential disruption of wave energy transmission, nearshore sediment pathways, and coastal morphology, due to the presence of cable protection within the shallow nearshore zone perpendicular to longshore sediment transport.

C.4.285 NE [\[REP6-155\]](#) directed the ExA to its response in [\[REP5-172\]](#) to explain the reasons for this, in which it states that “For marine processes, this is an EIA matter. However, the presence of cable protection in shallow nearshore water could cause morphological change through alteration of the nearshore hydrodynamic regime or sediment transport pathways which, in turn, could affect Annex I benthic and/or coastal ecological receptors of the Lincolnshire Coast designated sites and The Wash.”

Cable protection in the nearshore

C.4.286 NE [\[RR-045\]](#) raised several concerns in relation to the amount (volume area and height) of cable protection required in the nearshore area. This included the potential for 1.5m high rock berms for an unknown period of time. It raised concerns regarding the placement of cable protection within the shallow nearshore and the potential for interference with wave energy transmission. This in turn could affect nearshore sediment pathways and coastal morphology, including receptors to the south and along the adjacent coastline at the landfall. It also noted changes to the coastline management plan in 2024, which NE state, raises uncertainty for the assessments.

C.4.287 The applicant’s Responses to Relevant Representations [\[PD1-071\]](#) confirms that cable protection measures within the nearshore environment would not take the form of 1.5m high rock berms. The applicant states that cable protection measures within the inner depth of closure are unlikely to exceed 0.35m in height (with the exception of cable crossings) and that full details would be informed by detailed engineering work developed post consent in consultation with relevant stakeholders. The applicant [\[PD1-071\]](#) set out the justification for the cable protection in the nearshore, noting the rationale behind methods likely to be required. It also stated that it was continuing to work with the Environment Agency (EA) on matters relating to the coastline management plan. It did state that the EA had confirmed that “*if beach management were to be stopped in the area, the scale of potential changes in the shoreline are such that any effects attributable to the project would be unobservable*”.

C.4.288 The ExA raised a question in ExQ1, HRA1.7 [\[PD-013\]](#), relating to nearshore cable protection as secured in the dDCO [\[PD1-024\]](#). In response, NE [\[REP2-074\]](#) noted the applicant’s response [\[PD1-071\]](#) but reiterated that the figures quoted have not been supported by engineering design work. It highlighted the discrepancy in its view between the measures in the DCO, seeking clarification on the proposed cable protection, noting that cable protection deployment limited to no greater than 5% of the water depth secured through dDCO, Part 2, condition 13 (I)(d)(ii)(bb) and a depth no more than 0.35 [\[PD1-071\]](#) does not amount to the same measurement. Noting the unlikely chance of anchor strike, NE queried the need for protection. The applicant [\[REP3-054\]](#) clarified that 0.35m is 5% of 7.1m (the inner depth of closure).

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As such, there is no conflict between these measurements. It was noted that this representation made reference to the potential use of rock berms which had previously been discounted at the nearshore.

- C.4.289 The applicant [\[REP3-054\]](#) stated that the MDS for the nearshore cable protection includes the 'unlikely event' where target cable burial depth cannot be achieved. It goes on to state that Part 2, Condition 13 (1) (d) (ii) and Condition 13 (1) (d) (iii), of the deemed marine licence at Schedule 11 of the dDCO includes for a CSIP and a SPCPP, in line with the outline plans, to be submitted and approved in writing by the MMO, and for which NE is a statutory consultee. Final engineering design, as articulated by the applicant, is undertaken at the pre-construction phase, once final methodologies and techniques are confirmed.
- C.4.290 NE [\[REP6-147\]](#) welcomed the applicant's commitment to the use of removable concrete mattresses however requested the applicant provide evidence that the concrete mattresses would not move or be impacted by fishing activities. The applicant [\[REP6-104\]](#) states that a typical concrete mattress weighs approximately 9.5 to 10 tonnes and that its design conforms to industry standards. The applicant confirms [\[REP6-104\]](#) that its specialist consultant liaised with fishermen from the area (5 March 2025) and it has been indicated that there is an absence of trawlers in the nearshore area. In addition, the applicant considers that concrete mattresses are more likely to embed into the seabed, which it considers would increase their stability further. The applicant also states that it is aware of design optimisations of tapered concrete mattresses increasing stability even further where deemed required and that this would be defined in the detailed design stage post consent. The applicant concludes in [\[REP6-104\]](#) that it is very confident that neither storm events nor fishing would impact on the stability or position of concrete mattresses.
- C.4.291 NE [\[REP5-163\]](#) remain concerned that the MDS does not explicitly state the MDS parameters for the nearshore cable protection and sought confirmation on the MDS cable protection height being 0.35m and the MDS nearshore cable protection length. NE's final Risk and Issues Log [\[REP6-153\]](#) states that NE understands that the applicant intends to provide MDS at D6 and that NE requires review of the applicant's D6 submission before it can revisit its position regarding HRA conclusions.
- C.4.292 The applicant states in [\[REP6-104\]](#) that a commitment for the nearshore cable protection height to not exceed 0.35m is secured in the updated SPCMP submitted at D6 [\[REP6-076\]](#). However, other than stating that mattresses generally have dimensions of approximately 6m by 3m by 0.3m in paragraph 28 [\[REP6-076\]](#) it is not evident to the ExA that a maximum height of 0.35m for nearshore cable protection is secured [\[REP6-076\]](#).
- C.4.293 The ExA having reviewed the information before it, notes the evolution and clarity provided during the course of the examination including the removal of the use of a rock berm and the commitment to the use of removable concrete mattresses and clarifications in the MDS.
- C.4.294 However, in relation to the use of a rock berm, the ExA is content that requirement 3 of the dDCO secures the use of rock mattresses in the nearshore along with details set out in the outline SCPCP [\[REP6-076\]](#) and the outline CSIP [\[REP6-062\]](#). The ExA deems further clarification can be provided through drafting of the final SCMP in setting out the MDS to include this information.

Suspended sediment/deposition

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- C.4.295 A further related matter was also raised at D2 [\[REP2-094\]](#), relating to the risks of impacts to benthic/ intertidal ecological receptors from nearshore cable protection measures. NE requested further information to inform its understanding relating to the potential disruption of sediment transport along the nearshore. The applicant responded [\[REP3-037\]](#) setting out the information that had been provided to NE relating to the breakdown of the cable protection within the ECC. The applicant reaffirmed that further design refinement would take place pre-construction.
- C.4.296 The ExA [\[PD-022\]](#) sought further guidance from NE on what information it was seeking from the applicant. NE [\[REP5-172\]](#) referred back to its comments pertaining the use of Hornsea One data and uncertainty regarding the thickness of the mobile sediment layer, scour potential, and seabed mobility across the study area (discussed above for IDRB NR SAC). NE requested further monitoring commitments and adaptive management to be secured. NE continued [\[REP4a-136\]](#)[\[REP5-171\]](#) to seek further information on the parameters of cable protection required, however noted the applicant's commitment to use removable cable mattresses at the nearshore as requested by NE. NE [\[REP6-153\]](#) confirmed that this matter related only to the WNNC SAC but remained outstanding, noting the applicant's commitment to providing further information at D6 with NE being unable to provide a view due to the timing of the submission with the close of the examination. In response to NE's comments [\[REP6-153\]](#), the applicant set out the length area and volume of nearshore cable protection required, as supplied to NE on 25 March 2025; length 2076m, area 12456m², volume 4359m³. The height was not included, as noted above. This information provided to NE was not provided to the examination.
- C.4.297 As noted above, it is not evident to the ExA that the height of cable protection has been secured at a maximum height of 0.35m in [\[REP6-076\]](#). However, the ExA is confident that such information can be secured through the final certified versions of the outline SPCMP [\[REP6-076\]](#) and the outline CSIP [\[REP6-062\]](#). As this information was submitted late in the examination, at D6, a formal view from NE has not been provided. The SoS may wish, therefore to consult relevant IPs for their views.
- C.4.298 The ExA considers that greater clarity should be provided within the certified documents drafted in line with the outline SCPCP [\[REP6-076\]](#) and the outline CSIP [\[REP6-062\]](#) to ensure commitment and clarity in relation to the MDS. This, throughout the examination, was the request from NE.

Use of Horizontal Directional Drilling (HDD) for the installation of the offshore export cables at landfall and the design of the exit pits

- C.4.299 In NE's Appendix C7 to its D6 submission [\[REP6-147\]](#), NE requires clarification as to why the following mitigation has been removed from ES Chapter 9 Benthic and Intertidal Ecology Table 9.11 [\[REP5-020\]](#):
- "The installation of the offshore export cables at landfall will be undertaken by HDD. The exit pits will be designed to be a target 500m offshore of the Mean Low Water Springs (MLWS) mark."*
- C.4.300 NE notes that the chapter continues to outline the commitment for the HDD exit pit 500m offshore and suggest this is reinstated in line with the commitment at point 39 of the Schedule of Mitigation [\[REP5-124\]](#).

- C.4.301 The ExA notes that whilst ES Chapter 9 table 9.11 submitted at D6 [\[REP6-018\]](#) no longer includes details on HDD at landfall, table 9.10 states “*MDS for intertidal temporary habitat disturbance is not included as the HDD exit pits will be designed to a target of 500m below MLWS and as such there will be no direct effects on the intertidal.*” The use of HDD is also noted in paragraph 168, 212, 230 and 250.
- C.4.302 Furthermore, the ExA notes that applicant’s Schedule of Mitigation [\[REP6-074\]](#) includes the commitment to the location of HDD exit pits a minimum of 500m from MLWS within point 39, noting that this is set out in the Outline CSIP [\[REP6-062\]](#) and secured within final dDCO Condition 13(1)(d)(iii) [\[AS-042\]](#). The ExA is therefore satisfied that the use of HDD for the installation of the offshore export cables at landfall and the design of the exit pits to be a target of 500m below MLWS is adequately secured.
- C.4.303 The ExA does not consider it necessary for the commitment to be added back into table 9.10 as a drafting point.

The ExA’s conclusions on WNNC SAC

- C.4.304 The ExA notes a consistent request from NE throughout the examination for clarification on the applicant’s MDS to inform its view on AEol. The applicant has indicated that it removed the use of a 1.5m rock berm in the nearshore. Whilst parameters for a rock berm are retained as an option, with parameters set out in the SCPCP [\[REP6-076\]](#) and outline CSIP [\[REP6-062\]](#), the ExA is content that requirement 3 of the dDCO secures the use of rock mattresses in the nearshore along with details set out in the outline SCPCP [\[REP6-076\]](#) and the outline CSIP [\[REP6-062\]](#). The ExA deems further clarification can be provided through drafting of the final SCPMP in setting out the MDS to include this information, and that this would address NE’s concerns over impacts of this component.
- C.4.305 The ExA notes that the length, area and volume of cable protection, although stated as being provided to NE in March 2025 (reported in [\[REP6-153\]](#)), do not appear to be secured through the control documents along with the commitment to a maximum height of 0.35m. The ExA recognises that due to the timing of the submission, that the information provided to IPs and commitments stated by the applicant [\[REP6-153\]](#) have not been commented on by IPs and issues remain outstanding as a result. However, the ExA is of a view that these parameters should be secured within the control documents and deems the SPCPMP to be the appropriate location.
- C.4.306 NE’s final Risk and Issues Log [\[REP6-153\]](#) states that NE requires review of the applicant’s D6 submission before it can revisit its position regarding its conclusions on AEol on the WNNC SAC. Therefore, this is a matter the Secretary of State may wish to further consult on, noting the ExA conclusions above in relation to securing the MDS/WCS and restrictions over the use of a rock berm in the nearshore.
- C.4.307 The ExA is of a view that the WCS areas and volumes of cable protection should be provided by the applicant prior to commencement. This should be agreed by NE and the MMO and secured through specific wording in the SPCPMP [\[REP6-076\]](#) and the Outline CSIP [\[REP6-062\]](#), which are certified documents in Schedule 21 of the final dDCO [\[AS-042\]](#) and under the terms of Condition 13 as part of the construction method statement.
- C.4.308 The ExA is reassured that through Condition 13(1)(d)(iii) of Schedules 10 and 11 of the dDCO [\[AS-042\]](#), the MMO would have control over the acceptance of the final

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plans, which would include the quantities, extent and locations of cable protection, including within shallow nearshore waters. Therefore, the ExA considers that this would provide the security NE seeks on implementing no more than the WCS assessed with the addition, with further confirmation and limitations set out the control documents as discussed above.

- C.4.309 Having reviewed the evidence set out by the applicant, the ExA is content that the removable concrete mattresses will not move location as a result of the dynamic environment or due to fishing activities.
- C.4.310 The ExA notes, as set out above, the measures that the applicant has secured through the application to limit impacts due to changes to physical processes on the sandbanks covered by sea water at all times qualifying feature and with further design iteration and agreements required pre-construction. The ExA notes that NE does not explicitly state that AEoI in-combination could be ruled out should the applicant confirm and secure dimensions of cable protection and the commitment to the use of rock mattresses and not a rock berm, nor does NE [\[REP6-153\]](#) request further mitigation or information is required. It is noted that NE state that it is unable to provide its final views without reviewing the applicant's D6 submissions.
- C.4.311 The ExA is of the view that should the commitment to the MDS/WCS cable protection be secured in the SPCMP [\[REP6-076\]](#) and the Outline CSIP [\[REP6-062\]](#) as being no more than 0.35m in height, along with other parameters for concrete mattresses as requested in [\[REP6-153\]](#) and for the use of a rock berm not being permitted within the near shore, NE's concerns relating to the presence of these components would be resolved.
- C.4.312 The ExA acknowledges that a final view from NE was not provided due to timing of D6 submissions. However as noted above, the ExA, providing the agreed MDS/WCS is secured as set out above, is of the view that NE's concerns have been addressed and therefore AEoI in-combination from changes to physical processes to the Annex I sandbanks covered by water at all times qualifying feature can be ruled out. Should it wish, the SoS could seek further views from NE as to whether an AEoI in-combination on the WNNC SAC qualifying features can be ruled out.

Findings in relation to AEoI - marine mammals

- C.4.313 A description of each European site and its qualifying features assessed by the applicant is provided in section 3 of the applicant's HRA Screening Report [\[REP4-037\]](#). Potential effects resulting from the proposed development are provided in table 7.1 and described in sections 9 (project alone) and 10 (in-combination) of the applicant's RIAA [\[REP4-030\]](#).

Marine mammals – population modelling

- C.4.314 NE [\[RR-045\]](#) requested that iPCoD modelling be provided to inform the assessment of impacts on marine mammals and to enable NE to conclude on AEoI. This matter was also raised in relation to EIA matters. NE did, as part of its evidence [\[REP1-060\]](#), recognise limitations to iPCoD modelling, but maintained its view that it was a useful tool to be used as part of the assessment process. This was discussed and explored by the ExA throughout the examination. The applicant provided iPCoD modelling for the project alone assessment [\[PD1-094\]](#). The ExA sought views from NE and MMO in ExQ1, MM1.5 [\[PD-013\]](#) on the conclusions of the modelling. The MMO deferred to NE [\[REP2-092\]](#). While NE [\[REP2-074\]](#) did not confirm a view on the conclusions, NE's Risks and Issues Log [\[REP3-074\]](#), marked this issue as

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resolved (project alone). The iPCoD modelling was further updated at D4 [REP4-099].

C.4.315 In response to a question from the ExA ExQ2 MM 1.1 [PD-020] on in-combination effects, the applicant [REP4-107] noted that to undertake such modelling would require information on the piling schedules from other projects which was not available. In its response to the RIES, the applicant noted [REP5-149] that it was awaiting further information on the in-combination modelling from NE. At D6, NE provided a copy of advice provided to the applicant on 28 March 2025 through its Discretionary Advice Service (DAS) in which it reiterated the request for in-combination modelling. NE's Risk and Issues log [REP6-153] noted that further iPCoD modelling was due but that this was not going to be provided for comment before the close of the examination. NE stated that in-combination modelling '*may go some way to partially resolve/resolve the issue*'. The applicant provided a cumulative iPCoD modelling report at D6 [REP6-026] however this was not incorporated into the updated RIAA [REP6-028]. NE did not provide comment on the in-combination assessment.

C.4.316 This matter is therefore outstanding at the end of the examination.

Mitigation – Noise Abatement Systems (NAS)

C.4.317 Chapter 3.6 of this Recommendation sets out the examination of the use of noise abatement systems in terms of the generic application as mitigation for marine mammals including the publication of the DEFRA Policy Paper 'Reducing Marine Noise' published in January 2025. The applicant maintained that it had made sufficient commitments in the Marine Mammal Mitigation Protocol (MMMP) to the use of NAS [REP2-051][REP4-107].

C.4.318 However, the applicant revised its wording in its final iteration of the MMMP for piling activities that (paragraph 44 [REP6-064]): "*The Applicant has committed to deploying primary and/or secondary noise reduction methods (Noise Abatement Systems) for pile driving, unless otherwise agreed with the MMO. The Applicant considers that the commitment it has made is now above what is required by the Defra (2025) policy...*"

C.4.319 The MMO [REP6-097] noted that the wording of the Outline MMMP for unexploded ordnance (UXO) Clearance [REP6-066] as being an agreed matter, however specific reference is not made to the Outline MMMP for Piling Activities [REP6-064].

C.4.320 Following a meeting with the applicant, the MMO [REP6-134] advised specific wording that should be included on the face of the Deemed Marine Licence (DML) for a Condition in Schedule 10. The ExA notes that this wording has been included in Condition 13(1)(f) of Schedule 10 of the dDCO [AS-042]. It is also contained in Condition 13(1)(f) of Schedule 11 and Condition 11(1)(e) of Schedules 12 to 15 (the offshore artificial nesting structures). This is the exact wording that the MMO had requested in [REP6-134], and which the MMO reported had also been agreed with NE. Furthermore, as recorded in [REP6-145] NE considers that this wording "*...does go some way to committing to NAS in the way Natural England has requested and is a significant step towards resolving the issue*".

C.4.321 Further representations were not received and due to the timing of the submission, the ExA was unable to seek further information on this point in relation to what further commitment or mitigation NE were seeking to resolve this matter.

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- C.4.322 The applicant submitted an Outline MMMP for piling activities [APP-279] and an Outline MMMP for UXO clearance [APP-280] with the application and these were updated throughout the examination. It should be noted, however, that UXO clearance was not set out by the applicant to be covered by the DCO and DML but would be covered by a separate consenting licence. The MMO [REP1-056] agreed with the applicant's approach to UXO clearance being secured through a separate licence. This is explained further in chapter 3.6 of this Recommendation. The overall context of assessing methodology and predicted impacts are covered in chapter 3.6 of this Recommendation as EIA matters.
- C.4.323 These matters were also explored through the RIES [PD-022], where it was noted that matters relating to UXO also share a degree of commonality with piling monitoring and mitigation.
- C.4.324 NE [RR-045] advised that the following measures should be secured through further commitments by the applicant:
- a delay of 20min from the last marine mammal sighting before soft start commences
 - updated Passive Acoustic Monitoring (PAM) guidance to be followed (JNCC, December 2023)
 - commitment to 10% maximum hammer energy
 - should Acoustic Deterrent Devices (ADD) be turned off due to a delay in piling, a break should be at least 20 minutes to ensure a startle/flee response once activated
 - visual marine mammal searches should commence at 30 minutes before ADD activation
 - commitment to the use of qualified Marine Mammal Observers (MMObs) for pre-piling searches including a pre-detonation search
 - PAM to be used to supplement visual monitoring during poor conditions but piling in such conditions is not recommended.
 - monitoring to cover the increased mitigation zone, informed by the PTS impact zone
- C.4.325 These were discussed throughout the examination. NE in its Risks and Issues log submitted at D6 [REP6-147] noted agreement with all the matters above in relation to HRA. It does however go on to state that procedures for piling and UXO detonation at night and in reduced visibility remain in the MMMP and reiterated that it does not support this. UXO matters were not covered as part of the examination.
- C.4.326 The ExA considers that the applicant responded to requests from NE to provide greater certainty around the measures to be deployed to monitor and to provide mitigation during piling activities. Where matters had not reached full agreement by the end of the examination, the ExA considers that the Outline MMMP for piling along with the DEFRA Policy Paper 'Reducing Marine Noise' provide a framework for such matters to be resolved post-consent.

The Wash and North Norfolk Coast (WNNC) SAC

Harbour seal – underwater noise

- C.4.327 The applicant concluded no AEoI on the harbour seal qualifying feature from underwater noise as a result of piling, UXO clearance, seabed surveys and seabed activities from the proposed development alone during construction and decommissioning [REP4-030]. It concluded that subject to natural change, the

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supporting habitat for harbour seal and its prey would be maintained in the long-term [REP6-028].

- C.4.328 This was disputed by NE throughout the examination for both alone and in-combination effects. NE's final position [REP6-148], stated *"Natural England cannot agree to the conclusion of no AEol on harbour seals because of the high proportion of animals expected to be disturbed by underwater noise caused by piling from the project in combination with other projects. The project in combination with other projects is predicted to cause disturbance to 6.5% of harbour seals within the Management Unit (MU). Since the Wash and North Norfolk Coast (WNNC) SAC is the only SAC for harbour seals in the MU, it is reasonable to assume that those seals are from the WNNC SAC"*.
- C.4.329 NE [RR-045] considered that disturbance impacts as a result of piling could further hinder the 'restore' objective of the WNNC SAC. It went on to request further noise mitigation, suggesting NAS, during the pupping season (June, July and August). NE [REP1-060] queried whether the disturbance contours for harbour seal in figure 11.4 [APP-099] of Chapter 11 [APP-066] overlap with The WNNC SAC.
- C.4.330 NE requested a figure containing the noise contours as presented in figure 11.4 of ES Chapter 11 with the border of The WNNC SAC to understand the extent of the overlap. NE also stated concerns regarding information available relating to the barrier impacts from the piling at the ORCP on harbour seal decline. The applicant in response [REP2-051] identified further figures in the application documentation to provide NE with the information it sought. It also provided further figures with monopile 5dB SEIs disturbance contours from 145- 180 dB [REP3-048]. The applicant [REP2-051] deemed on review of these figures that seasonal restrictions were not necessary. NE [REP4-135] noted that following the review of revised figures [REP3-048] that it agreed underwater noise from piling would not cause a significant barrier for harbour seal.
- C.4.331 The ExA RIES Q.62 [PD-022] sought a further update from NE as to its outstanding concerns. NE noted [REP5-172] that whilst it is *"satisfied that the underwater noise from piling at the ORCP will not cause a barrier effect at the WNNC SAC"*, It goes on to note that *">5% of harbour seals within the MU will be disturbed, and this is a declining population"*. As a result of this, it is unable to rule out AEol on harbour seal at The WNNC SAC.
- C.4.332 The applicant in response to NE's comments clarified that in its view, the WCS assessed *"does not fully reflect the scale and duration of the works"*. It considered that these are likely to be limited to 8 days within a defined temporal period. The applicant also stated that it considers the majority of disturbance arising from the proposed development will be within the array area with turbine piling and not the ORCP, the area with which NE is particularly concerned. It reiterated its conclusions in the RIAA [REP6-028] paragraphs 262 to 265 which it states are robust and based upon a precautionary assessment. The applicant also highlighted the commitment, discussed above in section C.4.317, to primary and secondary NAS.
- C.4.333 In the final representation [REP6-148], the applicant noted that NE had suggested that should the applicant incorporate its advice in [REP5-165] (further commitment to a noise reduction threshold in the MMMP), it would resolve issues of harbour seal disturbance. The ExA notes that the applicant has stated that the updated modelling does not change any of the conclusions but that NE was awaiting updated iPCoD modelling following further advice it provided to the applicant on 28 March 2025. NE noted that the issues were progressed by D6 [REP6-148], but needed commitment

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to the use of NAS in conjunction with High Order detonation. NE's final position on marine mammals [REP6-148] was that it was unable to exclude either project alone or in-combination AEol to the harbour seal qualifying feature of the WNNC SAC (and grey seal for Humber Estuary SAC) from underwater noise. NE [REP6-155] stated that "*The implementation of noise abatement or noise reduction technology would resolve this issue*".

The ExA's conclusions on WNNC SAC

- C.4.334 As discussed above, the applicant has made a number of updates throughout the examination. The ExA considers that the applicant responded to requests from NE to provide greater certainty around the measures to be deployed to monitor and mitigate during piling activities. It has also been demonstrated throughout the examination, that the MMO, NE and the applicant are working together to progress this matter. Where matters had not reached full agreement by the end of the examination, the ExA considers that the Outline MMMP for piling activities along with the DEFRA Policy Paper 'Reducing Marine Noise' provide a framework for such matters to be resolved post-consent.
- C.4.335 The ExA agrees with NE's position that there are a number of mechanisms to ensure that mitigation is effective and at a level to reduce disturbance to grey seal. In relation to both project alone and in-combination effects, the ExA notes that NE had not reached a conclusion by the close of the examination and its final feedback on the applicant's iPCoD modelling [REP6-026] is pending and thus NE had not confirmed its final views on in-combination effects on the harbour seal qualifying feature of the WNNC SAC. However, based on the applicant's submitted evidence, including the findings of the cumulative iPCoD Modelling Report [REP6-026], the ExA concludes that the applicant has provided sufficient information to enable both project-alone and in-combination AEol on harbour seal at the WNNC SAC to be ruled out. However, as this information was submitted late in the examination, at D6, a formal view from NE has not been provided. The SoS may wish, therefore to consult the relevant IPs for their views.

Humber Estuary SAC

Grey seal (*Halichoerus grypus*) – underwater noise

- C.4.336 The applicant concluded no AEol on grey seal at the Humber SAC [REP4-030] from these impact pathways. NE [RR-045] from the start of the examination, contended that further justification was required to support the applicant's RIAA conclusions in-combination on grey seal at the Humber Estuary SAC. This matter related to the request for iPCoD modelling (see section C.4.314 to C.4.316 above).
- C.4.337 Matters relating to harbour seal at the Humber Estuary SAC reflect those discussed above in relation to grey seal at the WNNC SAC and therefore are not repeated here. NE [REP6-155] states that "*The implementation of noise abatement or noise reduction technology would resolve this issue*".

The ExA's conclusions on Humber Estuary SAC (grey seal)

- C.4.338 As discussed above, the applicant has made several updates throughout the examination. The ExA considers that the applicant responded to requests from NE to provide greater certainty around the measures to be deployed to monitor and mitigate during piling activities. It has also been demonstrated throughout the examination, that the MMO, NE and the applicant are working together to progress this matter. Where matters had not reached full agreement by the end of the

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examination, the ExA considers that the need for a final MMMP for Piling Activities in accordance with the outline MMMP, which has been secured in Schedule 10, Condition 13(1)(f) of the dDCO [\[AS-042\]](#), along with the DEFRA policy paper 'Reducing Marine Noise' provide a framework for such matters to be resolved post-consent.

- C.4.339 The ExA agrees with NE's position that there are a number of mechanisms to ensure that mitigation is effective and at a level to reduce disturbance to grey seal. In relation to both project alone and in-combination effects, the ExA notes that NE had not reached a conclusion by the close of the examination and its final feedback on the applicant's iPCoD modelling [\[REP6-026\]](#) is pending and thus NE had not confirmed its final views on in-combination effects on the grey seal qualifying feature of the Humber Estuary SAC. However, based on the applicant's submitted evidence, including the findings of the cumulative iPCoD Modelling Report [\[REP6-026\]](#), the ExA concludes that the applicant has provided sufficient information to enable both project alone and in-combination AEoI on grey seal at the Humber Estuary SAC to be ruled out. However, as this information was submitted late in the examination, at D6, a formal view from NE has not been provided. The SoS may wish, therefore to consult the relevant IPs for their views.

Southern North Sea SAC (SNS SAC)

Harbour porpoise – underwater noise

- C.4.340 The applicant concluded no AEoI on harbour porpoise (*Phocoena phocoena*) from underwater noise, in-combination [\[REP4-030\]](#). NE [\[RR-045\]](#) noted concerns regarding the modelling undertaken by the applicant to understand project alone and in-combination impacts, relating to the use of iPCoD modelling (see section C.4.314 to C.4.316 of this appendix). NE also noted that in its view a specific summer density should be used in the assessment and not an annual density. This would enable demonstration of the importance of the summer months. The applicant provided this update [\[REP5-024\]](#).
- C.4.341 NE [\[RR-045\]](#) raised concerns in relation to the implementation of Site Integrity Plans (SIPs) for piling impacts in the Southern North Sea SAC not providing sufficient time for NAS to be procured prior to commencement of construction. It also raised concerns that there was an over reliance on the SIP as mitigation to rule out AEoI.
- C.4.342 The applicant [\[PD1-071\]](#) explained that the primary measures in the In Principle SNS SAC SIP [\[APP-281\]](#) are co-ordination in timings to avoid exceedance of the daily and seasonal thresholds recommended by SNCBs. The outline SIP outlines a number of measures that would be considered in the finalisation of the SIP pre-construction, taking into account up to date evidence, guidance and knowledge of other projects following detailed design. Additionally, the applicant has been accepted to join the membership of the Southern North Sea Offshore Wind Forum (SNSOWF), alongside the developers of other offshore wind farms in the southern North Sea, which actively coordinate on matters of underwater noise. The applicant further noted that this approach has been taken for all recently consented windfarms. The applicant considered the SIP the most effective measure to manage in-combination effects on the SNS SAC.
- C.4.343 The applicant further stated [\[REP4-113\]](#) that the MMO will only approve a SIP post-consent where it is satisfied that the project either alone or in-combination with other projects will not exceed the relevant noise thresholds.

- C.4.344 The MMO [\[REP2-092\]](#) advised that it strongly believes that noise should be reduced at source, noting the scale of development in the North Sea. The ExA explored further ExQ2 MM 1.3 MM 1.4 [\[PD-020\]](#) the relationship between the NAS and the SIP in mitigating impacts on the harbour porpoise features of the SNS SAC. Further discussion surrounding the securing of NAS commitments is discussed in section C.4.317 to C.4.326 of this appendix.
- C.4.345 NE in its risks and issues log [\[REP6-153\]](#) related its concerns to the project in-combination, noting the submission of in-combination iPCoD modelling. During the examination, NE did not raise any concerns on the potential for AEoI resulting from project alone effects until D6. The ExA through the RIES explored the potential for noise thresholds to be breached for harbour porpoise. NE in response confirmed the 20% noise threshold would not be breached by the project alone but predicts it would be breached for the project in-combination. In the final representation [\[REP6-155\]](#), NE suggested that “*The implementation of noise abatement or noise reduction technology would resolve this issue*”. It also confirmed it’s concern related to in-combination effects.

The ExA’s conclusions on Southern North Sea SAC

- C.4.346 NE [\[REP6-149\]](#) stated in its final representations that it did not agree to the conclusion of no AEoI on the harbour porpoise features of the SNS SAC for the project alone. However, based on the evidence set out, notably that the 20% noise threshold would not be breached along with mitigation through the NAS, the ExA concludes that there would be no AEoI project alone. On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the harbour porpoise feature of the SNS SAC from the proposed development alone.
- C.4.347 The ExA concludes that AEoI in-combination on the harbour porpoise features of the SNS SAC can be ruled out. The ExA considers that there are a number of mechanisms and a willingness to ensure that mitigation is effective and at a level to ensure no AEoI. In coming to this conclusion, it has also taken into the account the plans required to be agreed with relevant ANCBs prior to commencement of any construction and as such concludes it is possible to secure mitigation such that AEoI can be ruled out.
- C.4.348 In relation to in-combination effects, the ExA notes that NE had not reached a conclusion by the close of the examination and its final feedback on the applicant’s iPCoD modelling [\[REP6-026\]](#) is pending and thus NE had not confirmed its final views on in-combination effects on the harbour porpoise qualifying feature of the SNS SAC. However, based on the applicant’s submitted evidence, including the findings of the cumulative iPCoD Modelling Report [\[REP6-026\]](#), the ExA concludes that the applicant has provided sufficient information to enable AEoI on harbour porpoise at the SNS SAC to be ruled out in-combination. However, as this information was submitted late in the examination, at D6, a formal view from NE has not been provided. The SoS may wish, therefore to consult the relevant IPs for their views.

Berwickshire and North Northumberland Coast SAC.

Grey seal – all impact pathways

- C.4.349 The applicant concluded no AEoI on grey seal from all pathways [\[REP4-030\]](#) NE [\[RR-045\]](#) was unable to conclude no AEoI on the grey seal qualifying feature due to insufficient justification as to how the applicant had reached its conclusions. NE requested the applicant undertakes population modelling (such as iPCoD

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modelling). The discussion of matters relating to iPCoD modelling and the ExA's reasoning is provided in section C.4.314 to C.4.316 of this appendix.

- C.4.350 The ExA through the RIES [\[PD-011\]](#) noted this matter as outstanding and requested an update from the applicant and NE.
- C.4.351 NE [\[REP6-148\]](#) does not provide a final position on grey seal of BNNC SAC. In [\[REP5-149\]](#) the applicant's response to the RIES, the applicant states that it is awaiting confirmation from NE that cumulative iPCoD modelling is not required. However, in its response to the RIES [\[REP5-172\]](#) NE states that it is still waiting for the cumulative iPCoD modelling before it can reach a conclusion on in-combination AEol on this matter. NE [\[REP6-155\]](#) however did not list this matter in its AEol table as a matter of disagreement.

The ExA's conclusions on Berwickshire and North Northumberland Coast SAC

- C.4.352 The ExA notes that NE had not reached a conclusion by the close of the examination and its final feedback on the applicant's iPCoD modelling is pending and thus extent of in-combination effects had not been confirmed. However, based on the applicant's submitted evidence, including the findings of the cumulative iPCoD Modelling Report [\[REP6-026\]](#), the ExA concludes that the applicant has provided sufficient information to enable both project alone and in-combination AEol on grey seal at Berwickshire and North Northumberland Coast SAC to be ruled out. However, as this information was submitted late in the examination, at D6, a formal view from NE has not been provided.
- C.4.353 However, as this information was submitted late in the examination, at D6, a formal view from NE has not been provided. The SoS may wish, therefore to consult the relevant IPs for their views.

Findings in relation to AEol – migratory fish

- C.4.354 A description of each European site and its qualifying features assessed by the applicant is provided in section 3 of the applicant's HRA Screening Report [\[REP4-037\]](#). Potential effects resulting from the proposed development are provided in table 7.1 and described in sections 9 (project alone) and 10 (in combination) of the applicant's RIAA [\[REP4-030\]](#).

Humber Estuary SAC and Ramsar site

Sea lamprey *Petromyzon marinus* – river lamprey *Lampetra fluviatilis* – underwater noise

- C.4.355 The applicant's RIAA [\[AS1-095\]](#) section 9.4.4.1 provided an assessment which addressed the potential for AEol resulting from underwater noise during construction and decommissioning on the sea and river lamprey qualifying features of the Humber Estuary SAC, concluding no AEol [\[AS1-095\]](#) on the basis of the distance of the proposed development from the Humber Estuary SAC
- C.4.356 In its response to the RIES [\[PD-022\]](#), NE [\[REP5-172\]](#) noted the omission of river and sea lamprey qualifying features within the applicant's assessment of the Humber Estuary Ramsar site. Nevertheless, NE commented that despite this omission, it had no concerns about possible impacts to these qualifying features. No other IPs disputed the conclusions with respect to this site or qualifying features during the examination.

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The ExA's conclusions on Humber Estuary SAC and Ramsar site (fish qualifying features)

- C.4.357 On the basis of the above information, the ExA is satisfied that no LSE pathways would result in AEol to the river lamprey and sea lamprey qualifying features of the Humber Estuary SAC and Humber Estuary Ramsar site from the proposed development alone or in-combination with other plans or projects.

AEol Assessment Outcomes- Summary

Proposed development alone

- C.4.358 The applicant's RIAA [REP6-028] concluded that AEol can be excluded on the European site(s) listed in table 7.1 [REP6-028] from the proposed development alone, or in-combination with other plans and projects.
- C.4.359 Some of the conclusions in the applicant's RIAA were subject to examination through the ExA's written questions, through the RIES [PD-022] and in ISH. Based on the findings of the examination, the ExA is satisfied that AEol on all qualifying features of the following European site(s) can be excluded from the proposed development alone:
- North Norfolk Sandbanks and Saturn Reef SAC
 - The Wash and North Norfolk Coast SAC
 - Humber Estuary SPA and Ramsar site (ornithological features only)
 - Humber Estuary SAC (migratory fish, onshore ecology and onshore ornithology features only)
 - Gibraltar Point SPA and Ramsar site
 - The Wash SPA and Ramsar site
 - Southern North Sea SAC
 - Berwickshire and North Northumberland Coast SAC
 - Alde-Ore Estuary SPA
 - Greater Wash SPA and Ramsar site
 - Flamborough and Filey Coast SPA
 - Farne Islands SPA
 - North Norfolk Coast SPA and Ramsar site
 - Coquet Island SPA
 - Scottish SPAs
 - Saltfleetby-Theddlethorpe Dunes and Gibraltar Point SAC
- C.4.360 The ExA's conclusions of no project alone AEol are nevertheless based on the final matters raised in relation to these sites, set out in the sections above, which the SoS may deem necessary to consult on.
- C.4.361 The ExA concludes that a project alone AEol cannot be ruled out for the Inner Dowsing Race Bank and North Ridge SAC Annex 1 reef and sandbanks that are partly covered by seawater at all times qualifying features.

Proposed development in-combination

- C.4.362 The ExA has found that an AEol in-combination with other plans and projects cannot be excluded beyond reasonable scientific doubt for:
- Flamborough and Filey Coast SPA (kittiwake, guillemot and razorbill qualifying features and as components of the seabird assemblage qualifying feature)

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- Farne Islands SPA guillemot (and guillemot as a component of the seabird assemblage qualifying feature)
- Inner Dowsing Race Bank North Ridge SAC (Annex 1 reef and sandbanks which are covered by seawater at all times qualifying features)

C.4.363 Based on the findings of the examination, the ExA is satisfied that AEoI can be excluded from all other sites and qualifying features from the proposed development in-combination with other plans or projects.

Engaging with the HRA Derogations

C.4.364 If the competent authority cannot conclude the absence of an AEoI, such that no reasonable scientific doubt remains, then under The Habitats Regulations the project can proceed only if there are no alternative solutions and there are imperative reasons of overriding public interest (IROPI) why the project must be carried out. Suitable compensatory measures must also be secured to ensure the overall coherence of the UK National Site Network.

C.4.365 The applicant has submitted an overarching derogation case document with the application [\[APP-242\]](#). The compensation plan for the FFC SPA kittiwake qualifying feature is supplied in [\[APP-250\]](#).

C.4.366 The derogation case was updated during the examination as [\[REP4-043\]](#) [\[REP4-055\]](#) and [\[REP6-036\]](#) to include information arising from the ORBA change request and information on post-submission legislation and policy updates. The D6 update [\[REP6-036\]](#) was also amended to include reference to the Farne Islands SPA. This appendix reports on this updated position [\[REP6-036\]](#).

C.4.367 The applicant also provided a derogation case and compensation plan on a 'without prejudice' basis for:

- the potential risk to the sandbank qualifying feature of the IDRBNR SAC [\[REP4-047\]](#) [\[REP5-105\]](#) [\[REP5-107\]](#) [\[REP6-040\]](#)
- the potential risk to the biogenic reef qualifying feature of the IDRBNR SAC [\[REP4-049\]](#) [\[REP6-038\]](#)
- the potential displacement risk to the guillemot qualifying feature of the FFC SPA [\[REP4-057\]](#) [\[REP6-044\]](#)
- the potential displacement risk to the razorbill qualifying feature of the FFC SPA [\[REP4-060\]](#) [\[REP6-046\]](#)
- Benthic Compensation Plan [\[REP5-109\]](#) [\[REP4-051\]](#) [\[REP6-040\]](#)

C.5 CONSIDERATION OF ALTERNATIVE SOLUTIONS

C.5.1 The wider examination of alternatives to the proposed development in terms of the NPS(s) is reported in chapter 3.3 of this Recommendation. This section addresses the examination of the alternative solutions test under the requirements of The Habitats Regulations².

² Guidance from DEFRA ('Habitats and Wild Birds Directives: guidance on the application of article 6(4) Alternative solutions, imperative reasons of overriding public interest (IROPI) and compensatory measures' DEFRA, 2012 and 'Duty to protect, conserve and restore European sites: Competent authorities must take action to help protect, conserve and restore the protected habitats and species of European sites' DEFRA, Welsh Government, NE, Natural Resources Wales 2021) states that alternatives must be financially, legally, and

- C.5.2 The applicant's assessment of alternatives, including the 'do-nothing scenario', and of alternative solutions to deliver the objectives of the proposed development is presented in section 3.5 [\[REP6-036\]](#).
- C.5.3 The assessment considered the 'do nothing' option of not developing the project. The applicant concluded this was not a feasible alternative to the proposed development, on the basis that it would result in the loss of 1.5 Gigawatts of low carbon electricity set out as a requirement of UK government targets.
- C.5.4 The applicant also explored the following other alternatives to the proposed development:

Alternative forms of energy generation

Offshore wind farms not in UK EEZ

- C.5.5 As set out above, the applicant referred to the 2021 DEFRA guidance to give consideration only to the same form of energy generation as the proposed development in order to deliver its objectives.
- C.5.6 Equally, the applicant noted that the needs case for the proposed development relates to UK-based policy, such as to secure UK energy security and to ensure export of electricity to the UK grid. The applicant concluded these objectives would not therefore be met by offshore wind farms outside of the UK.
- C.5.7 Only offshore wind alternatives within the UK were therefore explored further by the applicant.

Alternative wind farm locations outside of leasing rounds/ alternative wind farm locations within leasing rounds

- C.5.8 The applicant acknowledged that alternative locations outside of those offered during leasing rounds could reduce potential for impacts on European sites. The applicant, however, also pointed to the Secretary of State's decision for East Anglia One North as evidence that sites not within the Crown Estate or Crown Estate Scotland Agreement for Lease process do not represent alternative locations as they are not legally available to the applicant. Sites outside of The Crown Estate lease area were not therefore considered by the applicant as they were not considered to be feasible alternatives to the proposed development.
- C.5.9 The applicant also considered on that basis, that alternative leasing round sites could also not be considered feasible alternatives to the proposed development as they were not legally available to the applicant. It also noted that there was a need for significant amounts of offshore wind energy and that in order to meet relevant government targets, all available projects capable of contributing the policy targets needed to be deployed. Other alternative wind farm locations within leasing rounds could not therefore be considered as an alternative to the proposed development.

technically feasible. Alternatives must be capable of achieving the objectives of the proposed development and demonstrate a lesser adverse effect or avoid AEoI on the European site in question. This guidance is referred to in the applicant's HRA Derogation Case [\[REP6-036\]](#). The ExA has considered the alternatives solutions test in line with the requirements of The Habitats Regulations with reference to this guidance and the examination submissions.

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- C.5.10 The applicant [APP-242] also noted that NPS EN-1 states that “...the fact that there are other potential plans or projects deliverable in different locations to meet the need for Critical National Priority Infrastructure is unlikely to be treated as an alternative solution” and the requirement for consideration of alternatives in NPS EN-1 to take account of whether there is a realistic prospect of the alternative delivering the same electricity capacity to the same timescale, thereby discounting all other projects within leasing rounds that could not deliver capacity by 2030.

Alternative routes, scale, size, design, method or timing of the project.

- C.5.11 The applicant’s derogation case [REP6-036] considers the following alternative design or operational measures for potential effects on the FFC SPA and the Farne Islands SPA:

- reducing the numbers of WTGs
- reducing the ‘air gap’ between the minimum sea level and low tip blade height
- more condensed site layout (WTG)
- seasonal or timing restrictions on WTG operation

- C.5.12 Alternatives design measures for IDRBNR SAC considered:

- alternative cable corridors between the array area and grid connection point
- micrositing
- proceeding without cable protection
- alternative forms of cable protection
- using fewer cables and using HVAC transmission
- alternative timing

- C.5.13 The applicant concluded that none of the identified alternatives were technically, financially or legally feasible or do not meet the proposed development’s objectives, thereby not meeting the definition of alternatives as defined by legislation and guidance (see paragraph C.5.1). These were not therefore considered further.

- C.5.14 In its relevant representation [RR-045], NE stated it had no specific comments on the applicant’s submitted derogation case [APP-242]. No matters were raised in relation to the applicant’s conclusions of alternatives to overcome potential effects on the FFC SPA.

- C.5.15 NE did advise initially [REP1-061] that the ORCPs should be sited outside of the Greater Wash SPA due to the potential for effects on the red-throated diver qualifying feature.

- C.5.16 The ExA in ExQ1 HRA 14 [PD-013] asked the applicant to comment on the feasibility of this measure. The applicant stated [PD1-071] that the location of no more than 2 ORCPs reflected the location needed to deliver power to the onshore substation and that these also had been sited in the least impact location within the SPA. With the applicant’s change request [REP1-039] supplying mitigation and design measures and a submitted updated assessment [REP4-030], agreement was reached with NE on no AEoI for this site and qualifying feature [REP6-149] and so no further discussion in relation to alternatives to this site occurred through the examination.

Alternative cable corridors avoiding IDRBNR SAC

- C.5.17 The applicant updated its RIAA [AS1-095] and matrices [AS1-101] and [AS1-097] following the submission of the change request to include an offshore restricted

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build area (ORBA) and removed the northern ECC route. NE confirmed [\[REP1-064\]](#) that it agreed with the applicant's conclusions that the inclusion of the ORBA and removal of the northern ECC route would not result in a material difference to the impacts upon benthic receptors in comparison to those which were assessed within the applicant's RIAA [\[AS1-095\]](#), and included within the HRA for the ORBA and Revision to the offshore ECC [\[PD1-091\]](#).

- C.5.18 NE however raised concerns that the removal of the northern offshore ECC route option also removed the option to avoid impacts on the Inner Dowsing sandbank qualifying feature. NE reiterated the position expressed in its relevant representation [\[RR-045\]](#) in relation to the impacts of cable protection on site integrity.
- C.5.19 The applicant [\[REP3-037\]](#) confirmed that the changes set out in Environmental Report for the Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor [\[PD1-081\]](#), relating to the Order Limits for the DCO application retained the optionality along a section of the offshore ECC. This could allow the proposed development to avoid crossing the Inner Dowsing sandbank, should the option for aggregate area 1805 not be taken up by the agreement holder (Hanson Aggregates Marine Limited), or if the option is only taken up over part of the aggregate site.
- C.5.20 The applicant [\[PD1-081\]](#) confirmed that the aggregate option agreement has now been extended by The Crown Estate, and a Marine Licence Application to permit aggregates extraction over the whole site has been submitted to the MMO (ML ref: MLA/2024/00227). As such the applicant stated that the northern route is no longer viable or available to the proposed development. The applicant amended the Order Limits to exclude this section of the offshore ECC from the draft DCO.
- C.5.21 The ExA has concluded that a compelling need for the proposed development has been established and that the 'do nothing' option is not a feasible alternative. In HRA terms the 'do nothing' option would fail to meet the objectives of the proposed development and is not considered an alternative solution.
- C.5.22 On this basis, the ExA is satisfied that no alternative locations or sites exist for the proposed development that would present a feasible alternative solution.
- C.5.23 Taking into account this information, the ExA is satisfied that no alternative design parameters are known to be implementable that would present a feasible alternative solution.
- C.5.24 The ExA considers that the alternatives assessed would not constitute an alternative solution to the objectives of the proposed development. The ExA is satisfied that no alternative solutions exist which would deliver appreciable benefits in terms of adverse effects on the European site.

C.6 IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST (IROPI)

- C.6.1 The need for the proposed development is discussed in chapter 3.2 of this Recommendation. This section addresses the examination of the IROPI test under the requirements of The Habitats Regulations.
- C.6.2 The applicant's case for IROPI under the HRA process is presented in section 4, [\[REP6-036\]](#). This sets out the applicant's reasoning that there is an imperative need for the proposed development, with reference to the proposed development's significant contribution to limiting the extent of climate change in accordance with

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the objectives of the Paris Agreement, UK Government policy, and imperative, long-term, public interest goals. In this, the applicant also points to the clean energy transition through increasing offshore wind capacity by 2030 as necessary to protect the public from increased energy bills and to improve energy security.

- C.6.3 The applicant concluded that it considered the project's benefits would therefore override the AEoI on European sites with the provision of adequate compensation measures, paragraph 246 of [\[REP6-036\]](#). The applicant referred to the Plan-level HRA for National Policy Statement EN1-5 which concluded that subject to project-specific assessment:

“there is IROPI in designating this policy which permits new energy infrastructure because security of supply is essential for the maintenance of human health and public safety and because combating climate change (which is one of the factors creating the demand for new generating capacity) will have beneficial consequences of primary importance for the environment. The Government is certain that we need new energy infrastructure; we need a system of development consent and a set of criteria against which they will be determined. The Government is therefore satisfied that there are IROPI in adopting EN1 to EN-5.”

- C.6.4 The applicant's RIAA does not identify any priority habitats or species (as identified in The Habitats Regulations) to which the conclusions of no AEoI are disputed or where an AEoI has not been ruled out by the applicant. Therefore, the IROPI is restricted to reasons of human health, public safety, or beneficial consequences of primary importance to the environment/can include consideration of social and economic reasons [\[REP6-028\]](#).

- C.6.5 As identified above, the case for Development Consent is addressed in chapter 3 of this Recommendation which concludes that there is a compelling need for the proposed development. Taking into account the information surrounding the need for the proposed development, the public interests presented, and the interests are overriding when measured against the adverse effects, the ExA is of the opinion that IROPI for the proposed development could be established.

C.7 COMPENSATORY MEASURES – BENTHIC ECOLOGY

- C.7.1 At the start of the examination the applicant submitted a proposed package of compensatory measures across several documents on a 'without prejudice' basis for benthic ecology [\[APP-243\]](#) to [\[APP-248\]](#). The examination of these issues are covered in the section below.

Inner Dowsing Race Bank North Ridge SAC – compensatory measures

- C.7.2 NE [\[RR-045\]](#) initially provided overarching comments on the 'without prejudice' compensation proposed and noted that it does not support the following compensation measures:

- alternative measures for Annex I sandbanks and reef
- creation of Annex I reef as compensation for Annex I sandbank habitat
- anthropogenic pressure removal: marine debris and awareness campaign

- C.7.3 In its view, it stated that these measures cannot offset the predicted impact on the qualifying features and there was no delivery mechanism for the measure. The applicant [\[PD1-071\]](#) however in response to relevant representations considered that these measures retain value as potential 'without prejudice' compensation measures and referred the ExA to its detailed response to NE's concerns [\[PD1-](#)

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[071](#)]. NE [\[RR-045\]](#) confirmed that, other than for the measures listed above, it can see merit in other measures proposed. It does go on to state that further progress is required on each measure to ensure that it is achievable and able to deliver effective compensation.

C.7.4 The ExA ExQ1 HRA 2.14 [\[PD-013\]](#) sought views from NE and the applicant on what would need to be provided to enable NE to be confident that measures would offset the impacts on Annex I sandbanks and reef features and the progress made since the submission of relevant representations. The applicant submitted updated 'Without prejudice' Benthic Compensation Measures [\[REP2-052\]](#), identifying that the latest information from DEFRA was that the MRF would be in place by Autumn 2025 and that a ministerial statement on strategic benthic compensation was also due. NE [\[REP2-093\]](#) responded drawing the ExA's attention to its advice provided on Norfolk Vanguard OWF to support the deletion of the measure of debris removal from the suite of compensation measures. NE raised a number of concerns during the examination in relation to the applicant's conclusions on AEoI and by extension, the quantum of any compensation required.

C.7.5 The applicant has set out a number of 'without prejudice' compensation measures that relate to both Annex I sandbank and Annex I reef qualifying features at the IDRBNR SAC. Whilst these have been reported by the applicant separately, through the examination representations on compensation measures were received, providing comments on the measures without specific reference to the qualifying feature to which they relate. With the aim of clarifying positions, these are reported upon separately below.

C.7.6 At D6 [\[REP-050\]](#), the applicant, updated the Without prejudice Benthic Compensation Evidence Plan and Roadmap with the removal of the following measures:

- Anthropogenic Pressure Removal Marine Debris and Awareness Campaign;
- Alternative measures for Annex I sandbanks and Reef; and
- Seagrass bed habitat creation/restoration

C.7.7 This was in light of the WMS (29 January 2025) and DEFRA guidance in relation to strategic compensation measures and reflecting NE's initial feedback [\[RR-045\]](#).

Compensatory measures – sandbanks that are slightly covered by seawater at all times

C.7.8 The applicant [\[REP4-045\]](#) identified that NE has advised that it is unable to conclude no AEoI for the potential loss of Annex I sandbanks slightly covered by sea water all the time in the IDRBNR SAC alone or in combination with other plans and projects resulting from the installation of cable protection material on the offshore export cables in those parts of the SAC where they cross the designated sandbank qualifying features.

C.7.9 The applicant identified strategic and project-led compensation measures in its evidence base and road map [\[REP6-040\]](#) should the SoS in its HRA conclude AEoI on IDRBNR SAC. This document [\[REP6-040\]](#) sets out the evidence base for the benthic compensation measures should the SoS consider that the proposed development would result in an AEoI on IDRBNR SAC. It provides information on compensation measures committed to by applicants on recently made OWF DCOs. It sets out for each measure listed below, further detail on its delivery, evidence

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base, scale (alone and in-combination), interaction with other users of the location, monitoring and adaptive management and funding.

- C.7.10 The 'without prejudice' Benthic Compensation Strategy ([[APP-243](#)] [[REP4-045](#)]) provides an overarching summary document for the 'without prejudice' Sandbank Compensation Plan [[REP5-105](#)]. These documents were updated to take account of the change requests accepted into the examination and in light of the updates in policy and guidance described above.
- C.7.11 The 'without prejudice' Sandbank Compensation Plan [[REP5-105](#)] sets out details of the measures along with a summary of stakeholder engagement, advice from NE on the measures, guidance to support the approach, baseline information on the IDRBNSR SAC including the conservation objectives, effect of the proposed development and compensation approaches (listed below).
- C.7.12 The outline Sandbank Compensation Implementation and Monitoring Plan (SCIMP) [[APP-245](#)] states that the final SCIMP will include details, where relevant for each measure to be taken forward, of the scale and location; design; delivery process; delivery timeframe; monitoring and adaptive management; and reporting. The compensation is in the form of:
- SAC extension and/or a contribution to the Marine Recovery Fund (MRF) or contribution to an alternative strategic system for the delivery of this measure
 - anthropogenic pressure removal through removal of redundant infrastructure, reduction in aggregate removal pressures, marine debris/litter removal, marine debris/litter awareness and engagement
 - creation of biogenic reef through either oyster beds or blue mussel beds
 - seagrass bed habitat creation/restoration
 - contribution to an alternative strategic system for the delivery of this measure for sandbanks
- C.7.13 Noting that some of these measures since submission of the application have been removed from the suite of measures and the details updated in the Without prejudice Benthic Compensation Evidence Plan and Roadmap at D6 [[REP-040](#)], however the outline SCIMP was not updated.

Strategic measures

- C.7.14 The applicant set out [[REP4-047](#)] the option for changing the boundary (extending the area) of an existing SAC (either IDRBNSR SAC or Haisborough, Hammond and Winterton (HHW) SAC) designated for sandbanks and to include an additional area of qualifying sandbank habitat. The applicant argues that the protection of currently unprotected Annex I sandbank habitat anywhere in the UK could potentially deliver compensation for the proposed development. [[REP4-047](#)] confirms that SAC extensions with ecological merit include an extension to the IDRBNSR SAC boundary to encompass the sandbank system (Docking Shoal) and supporting habitats outside but next to the current boundary and a westerly extension of the HHW SAC.
- C.7.15 This is a strategic measure that must be delivered by DEFRA in conjunction with NE and the JNCC. The applicant goes on to state that DEFRA envisages that this process will be undertaken once as a single strategic measure to account for all projects anticipating the need to use MPA designation as strategic compensation. The applicant's preferred option for compensation, if required, is an extension to an appropriate SAC. The without prejudice benthic compensation evidence base and road map [[REP6-040](#)] sets out further information on the measure.

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- C.7.16 NE raised concerns [RR-045] on the feasibility of this measure. The applicant in response [PD1-071] acknowledged that as discussed with NE *“the extent of the area to be designated must provide ecosystem functionality and network benefits and therefore the area for extension would need to encompass a whole sandbank system and the supporting habitats (including those available for biogenic reef). Extension areas are ambitious when considering the scale of the qualifying features for compensation and would only be deliverable strategically and proportionate to the Project’s requirements as detailed within section 3.3.1 of the Without Prejudice Benthic Compensation Evidence Base and Road Map [APP-248].”*
- C.7.17 The applicant goes on to state that *“The applicant remains confident that this measure can provide the quantum of compensation required due to DEFRA’s intention that this will cover all eventualities for all Round 4 OWF projects requiring benthic compensation. The applicant notes that, the applicant has sent details of the worst-case scenario to DEFRA as part of their request for information for an SAC extension.”*
- C.7.18 NE [RR-045] highlighted that delay in compensation delivery should be accounted for to ensure a lifetime balance. The applicant [PD1-071] confirmed that *“Ambitious extension areas also add additional compensation for uncertainty around delivering this proposal and any possible time lag between the impact occurring and the implementation of compensation”*.
- C.7.19 The ExA is aware that a WMS was published on 21 January 2025, which included confirmation that DEFRA would commit to designating new marine protected areas (MPA) and/ or extending existing MPAs to deliver sufficient compensation for OWFs with no ecologically effective options to compensate for unavoidable impacts to seabed habitats in SAC and Marine Conservation Zones (MCZ). DESNZ published supporting guidance on the same date, which explained how developers could refer to strategic compensation measures in DCO applications in advance of the MRF becoming operational.
- C.7.20 The applicant [REP4-113] noted that WMS had been published and confirmed that it was one of the projects covered by it. It will now be following this guidance. It also noted, in relation to NE’s concern regarding time-lag, the WMS states: *“the DESNZ Secretary of State and the Marine Management Organisation may consider circumstances where the adverse effect can occur before compensation is in place, however this would need to be considered against other factors. Where this is permitted, a greater amount of environmental compensation is likely to be needed to make up for the time delay and developers will be required to pay into the MRF before any adverse effect can occur. DEFRA will also be producing high-level implementation and monitoring plans in advance of final MPA designations to assist developers in providing the necessary information at this stage, with final updated plans being provided once designation has taken place.”* The applicant also amended its Sandbank Compensation Strategy [REP4-047] to commit to following the DESNZ supporting guidance in conjunction with NE and DEFRA, although not setting out what this would entail.
- C.7.21 At D5, NE noted its preference for the applicant to progress the strategic compensation measures for impacts on the sandbank qualifying feature [REP5-172], noting that it aimed to agree the level of compensation required for the proposed development in order that the applicant may apply to the Marine Recovery Fund in future. It also supported the applicant’s revision of the compensation measures [REP5-162].

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- C.7.22 In light of the WMS, NE's position stated in [\[REP4a-136\]](#) and unchanged at the end of the examination [\[REP6-153\]](#) was that it did not see merit in the applicant progressing project specific compensation measures, considering that the strategic compensation measure of Marine Protected Area designation and extension process has the greatest likelihood of maintaining the coherence of the NSN.
- C.7.23 NE nevertheless acknowledged that strategic compensation would occur in the post-consent phase [\[REP6-153\]](#).

Alternative protection methodologies

- C.7.24 The applicant has maintained through the examination ([\[APP-249\]](#) [\[PD1-071\]](#) and others) that the strategic measure of extension to an SAC also remains its preferred mechanism for delivery of compensation. Nevertheless, it has been exploring other options for the protection of sandbank habitat, where an extension to a SAC is not possible or feasible in the timescales required. These measures are set out in [\[APP-248\]](#), including the potential for protecting sandbanks outside of an SAC by designation of a byelaw to manage fishing activities or through a lease arrangement whereby the applicant is given exclusive rights to an area of seabed to prevent future marine activities in that area.
- C.7.25 NE [\[RR-045\]](#) stated that it does not consider that these alternative measures for Annex I sandbanks and reef are a viable option as they would require legislative changes which would not be viable within the project's timeframes. It goes on to state that it is unclear how these measures ensure coherence with the NSN. NE [\[RR-045\]](#) questioned the detail of information provided in [\[APP-248\]](#) in relation to the location, scale and extent of the alternative measures. The applicant [\[PD1-071\]](#) considers information is present in [\[APP-249\]](#) but acknowledges NE's position and notes that as a result of the progression of the strategic SAC extension measure, these measures are unlikely to follow a similar timeframe but have been included in the application in event that the SAC strategic extension does not materialise.

Anthropogenic Pressure Removal: removal of redundant infrastructure

- C.7.26 The applicant identified additional measures as part of the suite of compensation measures for Annex I sandbanks. This included the removal of infrastructure that is no longer in use, such as subsea cables or oil and gas infrastructure, and which has been installed on sandbank habitat within a SAC designated for sandbanks in the region (or, if no suitable infrastructure is identified within a SAC, then on similar habitat within the region).
- C.7.27 NE [\[RR-045\]](#) noted support for this measure but advised that "*currently there is no evidence that redundant telecoms cables are causing a significant impact on the Annex I Sandbank qualifying feature of the IDRBNR SAC or other benthic designated sites*". NE acknowledged that the applicant has shown that there are redundant telecommunication cables on the seabed but has not demonstrated that these are present on Annex I sandbanks and hindering delivery of the conservation objectives. In its view, until this can be demonstrated, it does not consider this a primary compensation measure.

Anthropogenic pressure removal: Aggregates industry pressures for Annex I sandbanks

- C.7.28 The applicant identified several licensed aggregate extraction areas within and adjacent to the IDRBNR SAC, as detailed in Without Prejudice Benthic Compensation Evidence Base and Roadmap [\[REP6-038\]](#). Noting that removal of

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aggregate within the IDRB NR SAC has the potential to impact the sandbank system, the applicant explored the possibility of percentage buy out of aggregate licences as a compensation measure.

- C.7.29 NE [\[RR-045\]](#) believed this to be a technically feasible measure, but with no certainty that it can be secured nor delivered prior to the impacts occurring. The applicant [\[PD1-071\]](#) stated that timing of the delivery of this measure would be confirmed once pre-construction survey work has identified the extent of *S.spinulosa* reef and thus the quantum of compensation required. Nevertheless, it gives an estimated timetable of reaching agreement with licence holders by the end of 2027 and thus before the anticipated start of cable installation works in Q4 2028 [\[PD1-071\]](#).
- C.7.30 In relation to the removal of aggregate industry pressures, NE also noted [\[RR-045\]](#) that all aggregate dredging licences require impacts to Annex I reef to be avoided. NE consider that it is more likely that reef has established on disturbed ground rather than existing reef having been impacted. The applicant [\[PD1-071\]](#) acknowledged the impasse in views on this matter with NE but noted that evidence presented from the aggregate industries does indicate that indirect impacts from increases in suspended sediment concentrations and associated deposition can result in reef establishing or surviving after a disturbance event, in its view, aiding the argument surrounding recoverability as per the assessment presented within ES Chapter 9: Benthic and Intertidal Ecology, section 9.8.1.10 [\[APP-065\]](#).
- C.7.31 The applicant at D4 [\[REP4-113\]](#) stated that it had met with aggregate licence holders but no further updates were provided at D5 or D6. NE's overarching observation [\[REP2-074\]](#) that strategic measures have come about due to the difficulties of progressing project-specific benthic compensation measures, remained its position at the close of the examination [\[REP6-153\]](#).

Anthropogenic pressure removal: Anthropogenic pressure removal marine debris/litter

- C.7.32 The applicant identified [\[REP4-047\]](#) that the removal of marine debris would be a direct means to improve habitat quality within the IDRB NR SAC serving to support the restoration of the sandbank habitat. It is expected that any debris/litter to be removed would predominantly constitute abandoned or lost fishing gear or dropped objects. NE [\[RR-045\]](#) noted that this was not a measure it supports. NE in its response to ExQ1 ([\[REP2-074\]](#), HRA2.14) also provided a link to a letter wherein its advice was provided to the Norfolk Vanguard OWF examination to support its view that removal of debris should not form part of the suite of compensation measures.
- C.7.33 The applicant's D6 version of the Benthic Compensation Evidence Base and Road Map removes this measure [\[REP6-040\]](#).

Anthropogenic pressure removal: Anthropogenic pressure removal marine debris awareness campaign for Annex I Sandbanks and Reef

- C.7.34 Linked to the compensation measure above, the applicant deems raising awareness would further ensure the success of the compensation measure. NE [\[RR-045\]](#) requested that this measure is removed from the list of proposed compensation measures and the applicant's D6 version of [\[REP6-040\]](#) removes this measure.

Creation of biogenic reef – compensatory measure for sandbanks which are slightly covered by seawater at all times

- C.7.35 The applicant in [\[REP4-049\]](#) sets out that the creation of biogenic reef, either in the form of blue mussel *Mytilus edulis* beds or reefs of the native oyster *Ostrea edulis* is capable of compensating for an AEoI to the IDRBNR SAC, where rock-based cable protection may be required over the cables on the sandbank qualifying features. The applicant states that the creation of new and additional sandbank habitat is not considered possible, as artificially created banks can be easily eroded by natural hydrodynamics. The applicant also states that in terms of the new compensation hierarchy (DEFRA, 2024), this measure can be classed as number 6: *“taking no account of local circumstances where the risk to the feature is predicted to occur, delivered at a distance to the area affected by the plan or project”*
- C.7.36 The applicant [\[PD1-071\]](#) noted that it commits to developing a Biogenic Reef Mitigation Plan (in accordance with the outline Biogenic Reef Mitigation Plan [\[APP-296\]](#) for approval by the MMO (with consultation from NE)) so that appropriate measures are taken to reduce the risk of potential impact to Annex I qualifying features. This commitment is repeated throughout the examination.
- C.7.37 At D2 [\[REP2-062\]](#) the applicant submitted a letter of comfort from The Crown Estate which confirms its ability to grant rights for construction of the biogenic reef in territorial waters providing conditions are met.
- C.7.38 At D4 the applicant provided a letter of comfort [\[REP4-122\]](#) from The Oyster Restoration Company to state that should this compensation be required, that it would be able to deliver it. [\[REP4-113\]](#) also notes that the applicant is in conversation with a blue mussel supplier however, the applicant states that this option is more complex due to the availability of seed mussels.

Seagrass bed habitat creation/restoration

- C.7.39 The applicant identified that if ‘like for like’ benthic compensation cannot be provided, then the provision of non-like-for-like compensation should be considered, as detailed within the relevant guidance (DEFRA, 2021), highlighting the restoration or creation of habitat, that whilst not classified as the same as sandbank habitat, has a similar ecological function.
- C.7.40 NE [\[RR-045\]](#) states that seagrass is not present on the Annex I sandbank features of the IDRBNR SAC and therefore deem seagrass a lower preference measure. NE also *“refers the ExA to the published ‘Offshore Wind Leasing Round 4 Dogger Bank Strategic Compensation Plan’ (April 2024). In section 3.4.3 it is stated that ‘The Steering Group had significant concerns about the deliverability of seagrass restoration, even on a small scale as there have been no long term successes with seagrass restoration in the UK’*. NE also states it is in the process of drafting a paper on this topic. Following a question from the ExA in ExQ1 HRA 1.8 [\[PD-013\]](#) the applicant confirmed that as a result of this measure, in NE’s view, delivering less than 10% of the required compensation, this strategy had not been prioritised, reiterating the strategic site mitigation being the preference.
- C.7.41 The applicant therefore removed this option from its Without Prejudice Benthic Compensation Evidence Base and Roadmap [\[REP6-040\]](#) and the draft DCO [\[AS-042\]](#).

Compensatory measures for Annex I Reef

- C.7.42 Due to the lack of an agreed position with NE on AEoI, the applicant [\[REP4-043\]](#) identified a ‘without prejudice’ case for the potential loss of Annex I *Sabellaria*

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spinulosa reef at the IDRBNR SAC resulting from cable installation where the offshore Export Cable Corridor (ECC) crosses the SAC.

- C.7.43 The applicant identified strategic and project-led compensation measures in the Without Prejudice Benthic Compensation Evidence Base and Road Map [\[REP4-051\]](#).
- C.7.44 This document sets out the evidence base for the benthic compensation measures should the Secretary of State conclude that the proposed development would result in an AEoI on IDRBNR SAC. It provides information on recent compensation measures committed to by applicants on recently made OWF DCOs. It sets out for each measure listed below, further detail on its delivery, evidence base, scale (alone and in-combination), interaction with other users of the location, monitoring and adaptive management and funding.
- C.7.45 The without prejudice benthic compensation strategy [\[REP4-045\]](#) provides an overarching summary document for the Biogenic Reef Compensation Plan [\[REP4-049\]](#). These documents were updated at D4 to take account of the change requests that have been accepted into the examination and updates in policy and guidance described in this Report above for sandbank compensation. It provides information on recent compensation measures committed to by applicants on recently made OWF DCOs. It sets out for each measure listed below, further detail on its delivery, evidence base, scale (alone and in combination), interaction with other users of the location, monitoring and adaptive management and funding.
- C.7.46 The Without Prejudice Benthic Reef Compensation Plan [\[REP6-038\]](#) sets out details of the measures for annex 1 reef along with a summary of stakeholder engagement, advice from NE on the measures, guidance to support the approach, baseline information on the IDRBNR SAC including the conservation objectives, effect of the proposed development and compensation approaches (listed below).
- C.7.47 The Outline Biogenic Reef Compensation Implementation and Monitoring Plan (BRCIMP) [\[APP-247\]](#) states that the final BRCIMP will include details, where relevant for each measure to be taken forward, of the scale and location; design; delivery process; delivery timeframe; monitoring and adaptive management; and reporting. The proposed compensation is in the form of:
- SAC extension or contribution to an alternative strategic system for the delivery of this measure
 - anthropogenic pressure removal through marine debris/litter removal, marine debris/litter awareness and engagement
 - creation of biogenic reef
 - strategic SAC extension or contribution to an alternative strategic system for the delivery of this measure
- C.7.48 See commentary above in relation to the strategic compensation measure.

Creation of biogenic reef

- C.7.49 The applicant in [\[REP6-038\]](#) sets out that the creation of biogenic reef, either in the form of blue mussel *Mytilus edulis* beds or reefs of the native oyster *Ostrea edulis* is capable of compensating for an AEoI to the IDRBNR SAC, where rock-based cable protection may be required over the cables on the sandbank qualifying features.

- C.7.50 The applicant stated that the creation of these biogenic reefs would provide equivalent ecosystem services to the component communities of the existing Annex I *Sabellaria spinulosa* reef and would be regarded as 'like-for-like' compensation for Annex I *Sabellaria spinulosa* reef, taking key consideration of 'ecological effectiveness' and 'local circumstances' (DEFRA, 2024). It deems that as natural components of the wider ecosystem, with a demonstrable historical presence, this measure would be complementary to the existing conservation measures for biogenic reef within the SAC. As such, the applicant contends that this measure would support the integrity of the wider National Site Network through supporting the key component communities associated with reef habitats.
- C.7.51 The applicant [PD1-071] noted that it commits to developing a Biogenic Reef Mitigation Plan (in accordance with the outline Biogenic Reef Mitigation Plan [REP2-043] for approval by the MMO (with consultation from NE) so that appropriate measures would be taken to reduce the risk of potential impact to Annex I qualifying features. This commitment is repeated throughout the examination.
- C.7.52 At D4 the applicant provided a letter of comfort [REP4-122] from The Oyster Restoration Company to state that should this compensation be required, that they are able to deliver it.

Anthropogenic pressure removal: Anthropogenic pressure removal marine debris awareness campaign for Annex I Sandbanks and Reef

- C.7.53 Linked to the compensation measure above, the applicant considered that raising awareness would further ensure the success of the compensation measure. NE [RR-045] requests that this measure is removed from the list of proposed compensation measures. The applicant [PD1-071] notes that if designed correctly this measure has value, however with the release of the WMS and guidance from NE, the applicant's D6 version of the Benthic Compensation Evidence Base and Road Map removes this measure [REP6-040].

Compensation level and timing

- C.7.54 As noted above, by the end of examination progress had been made in relation to securing the MDS/WCS. However, this remained unresolved due to the timing of the discussions and matters remained in relation to the securing of the parameters. Nevertheless, the ExA is of a view that agreement was likely, and parameters could be agreed and secured in final control documents.
- C.7.55 Linked to this, is the level of compensation, which was not discussed in detail during the examination by IPs, as the WCS/MDS discussions remained until the close of the examination.
- C.7.56 The ExA notes that a number of pre-construction surveys have also been committed to, to inform final design which in turn would influence compensation quantum.
- C.7.57 Specific disagreement in relation to the amount of cable protection required remained at the end of the examination. Disagreement remained in relation to contingency calculations, with the applicant applying a 20% plus 20% calculation and NE requesting 100% to be considered. The ExA concludes that NE has not provided sufficient evidence to support the use of 100% in the calculations and therefore in the absence of any further considered percentages, agrees with the applicant's calculation.

- C.7.58 The ExA acknowledges by the end of the examination that the amount of Annex I sandbank and Annex I reef features to be impacted by the project alone is not agreed.
- C.7.59 The ExA however is content with the calculation of supporting habitat for Annex I reef crossing over with the ECC as being agreed between NE and the applicant as 31.23km² [\[REP6-147\]](#).
- C.7.60 The ExA acknowledge that NE at D6 requested further detail over the supporting habitat impacted by the total area of cable protection [\[REP6-147\]](#). Such information was included by the applicant in the outline SCIMP [\[REP6-076\]](#). NE's agreement on these figures was not confirmed by the close of the examination.
- C.7.61 NE noted [\[REP4a -136\]](#) that it has confidence in agreement measures in the post-consent stage. It is also in agreement that an appropriate designation to compensation for the proposed development is a new or extended SAC in the North Sea to ensure that the NSN is maintained.
- C.7.62 Further information on NE's views were provided in its SoCG however this was an unsigned document and therefore the ExA does not deem that the information therefore can be relied upon without further confirmation from NE.

ExA conclusions on benthic compensation measures

- C.7.63 The ExA notes the updated guidance from DEFRA that identifies Round 4 wind farms (which includes Outer Dowsing offshore wind farm) as a development that would be eligible to use strategic compensation measures. It also notes that strategic delivery of a SAC extension remains the applicant's preferred compensation for the project and that NE's final position [\[REP6-153\]](#) welcomed the applicant's inclusion of this in its benthic compensation strategy [\[REP5-164\]](#) and [\[REP6-040\]](#).
- C.7.64 Nevertheless, these documents also explore project-specific measures as described in the previous sections of this Report. Part 4 of the applicant's draft DCO [\[AS-042\]](#) also secures the applicant's proposed sandbank compensatory measures, while part 5 [\[AS-042\]](#) secures the biogenic reef compensatory measures.
- C.7.65 The ExA also notes that final versions of the Without Prejudice Biogenic Reef Compensation Plan [\[REP6-038\]](#) and Without Prejudice Benthic Compensation Evidence Base and Road Map [\[REP6-040\]](#) have all been submitted at D6 to update the worst-case scenario calculations, feedback from NE on supporting habitats and to remove project-specific measures in light of further guidance and following the WMS on strategic compensation measures. Given the point in the examination that these changes were provided, however, the ExA is mindful that NE's final position on these documents has not been received. The SoS may therefore wish to consult further on these amendments.
- C.7.66 The WMS (January 2025) requires developers to secure the commitment to pay a contribution to the MRF to access the use of designations or extensions as a compensatory measure. The dDCO [\[AS-042\]](#) secures this requirement in both Part 4 and Part 5.
- C.7.67 Equally, the WMS nevertheless recognises that the level of detail that would normally be expected to be available to the SoS on compensatory measures will be provided post-consent. It also identifies that as a result, the DCO should include a

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requirement to work with DEFRA and the SNCBs and provide an Implementation and Monitoring Plan before works which give rise to an adverse effect can commence, and as soon as this becomes available from DEFRA. Part 4 and Part 5 of the draft DCO [\[AS-042\]](#) includes a requirement for the applicant to prepare a Sandbank Compensation and Implementation Plan (CIMP) and a Biogenic Reef CIMP.

- C.7.68 The ExA notes the position of NE that the applicant's preferred option for strategic compensation measures in the form of a SAC extension would be of a type suitable to address the identified adverse effect on integrity. NE, it is noted, also did not recommend further focus on project-specific measures in light of the 2025 WMS and has stated its preference for this as the measure most likely to maintain the coherence of the NSN.
- C.7.69 The ExA explains above, that the final positions in relation to quantum of compensation required have not been agreed by the close of examination, but considers this is likely to be progressed and agreed post-consent.

Compensatory measures – offshore ornithological qualifying features

- C.7.70 At the start of the examination the applicant submitted a proposed package of compensatory measures across several documents for the Flamborough and Filey Coast (FFC) SPA kittiwake qualifying feature and on a 'without prejudice' basis for guillemot and razorbill qualifying features [\[APP-249\]](#) to [\[APP-261\]](#) at the FFC SPA. The examination of these issues is covered in the section below.

Information submitted by the applicant

- C.7.71 To accompany the original application, in addition to HRA-related documents, the applicant also submitted a number of documents that relate to proposed compensation measures for ornithological qualifying features. These included the following:
- Ornithology Compensation Strategy [\[APP-249\]](#)
 - Kittiwake Compensation Plan [\[APP-250\]](#)
 - Outline Kittiwake Compensation Implementation and Monitoring Plan [\[APP-251\]](#)
 - Without Prejudice Guillemot Compensation Strategy [\[APP-252\]](#)
 - Outline Guillemot Compensation Implementation and Monitoring Plan [\[APP-253\]](#)
 - Outline Razorbill Compensation Implementation and Monitoring Plan [\[APP-254\]](#)
 - Without Prejudice Razorbill Compensation Plan [\[APP-255\]](#)
 - Offshore Artificial Nesting Structures Evidence Base and Roadmap [\[APP-256\]](#)
 - Without Prejudice Predator Control Evidence Base and Roadmap [\[APP-257\]](#)
 - Plémont Sea Bird Reserve Feasibility Study Report [\[APP-258\]](#)
 - Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill [\[APP-259\]](#)
 - The Crown Estate Kittiwake Strategic Compensation Plan [\[APP-260\]](#)
 - Appendix A The Crown Estate Kittiwake Strategic Implementation Monitoring Plan [\[APP-261\]](#)
 - Appendix B Letter of acceptance from Secretary of State [\[APP-262\]](#)
 - Appendix D Round 4 Strategic Compensation – Artificial Nesting Structure Site Selection, The Crown Estate [\[APP-263\]](#)
 - Compensation Funding Statement [\[APP-264\]](#)
 - Compensation Funding Statement Appendix 2: Accounts of Total Energies [\[APP-265\]](#)

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- Compensation Funding Statement Appendix 3: Accounts of Macquarie Group [\[APP-266\]](#)
- Compensation Funding Statement Appendix 4: Accounts of GULF [\[APP-267\]](#)

C.7.72 During the course of the examination the applicant provided either new information or updates on information directly relating to compensation measures, including the following documents:

- Collaborative Delivery of Kittiwake Compensation Letter of Intent [PD1- 098]
- Letter from Jersey Government Anti-Predator Fence East of Plémont, Jersey, Channel Islands [\[PD1-099\]](#)
- Kittiwake Compensation Plan [\[REP4-055\]](#) and [\[REP6-042\]](#)
- Without Prejudice Guillemot Compensation Plan [\[REP4-057\]](#) and [\[REP6-044\]](#)
- Without Prejudice Razorbill Compensation Plan [\[REP4-059\]](#) and [\[REP6-046\]](#)
- Offshore Artificial Nesting Structures Evidence Base and Roadmap [\[REP4-061\]](#) and [\[REP6-048\]](#)
- Without Prejudice Predator Control Evidence Base and Roadmap [\[REP2-025\]](#), [\[REP4-063\]](#) and [\[REP6-050\]](#)
- Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill [\[REP4-065\]](#), [\[REP4a-071\]](#), [\[REP5-111\]](#) and [\[REP6-052\]](#)
- Levels of precaution in the assessment and compensation calculations for offshore ornithology [\[REP2-057\]](#) and [\[REP4a-048\]](#)
- Guillemot and Razorbill Compensation Quanta [\[REP3-049\]](#), [\[REP4a-108\]](#), [\[REP5-143\]](#) and [\[REP6-102\]](#)
- Lead-in periods for kittiwake breeding on Artificial Nesting Structures [\[REP2-060\]](#) and [\[REP4-104\]](#)

C.7.73 The applicant submitted a Compensation Measures Funding Statement [\[APP-264\]](#) updated at [\[REP1-016\]](#) and [\[REP2-027\]](#) which provided estimated costs for the compensation measures (including those provided on a 'without prejudice' basis) and sought to demonstrate that the applicant has sufficient funds to meet the costs of delivering compensation.

C.7.74 Based on the applicant's case and the response received during the course of the examination the ExA considers that the main issues regarding the proposed compensation measures are as follows:

- compensation measures for kittiwake of the FFC SPA
- 'without prejudice' compensation measures for guillemot and razorbill of the FFC SPA
- 'without prejudice' compensation measures for guillemot of the Farne Islands SPA
- the future deliverability of the proposed compensation measures, including adaptive management measures
- disagreements over the levels of compensation to be provided
- the applicability of the Marine Recovery Fund

Compensation measure for kittiwake of the FFC SPA

C.7.75 The Crown Estate's Kittiwake Strategic Compensation Plan (KSCP) [\[APP-260\]](#) forms part of the Crown Estate's Round Four leasing requirements, and the proposed development has been identified within it as one of the projects that must contribute towards kittiwake compensation.

- C.7.76 In its Kittiwake Compensation Plan [\[APP-250\]](#), the applicant sets out the other compensation measures for kittiwake that had been considered, although these were not progressed further as primary measures:
- onshore nesting structures
 - urban deterrent removal
 - reducing / purchasing fisheries quotas
- C.7.77 Table 4.2 of [\[APP-250\]](#) provides a summary of the feasibility of each measure. The applicant has proposed the installation of up to offshore two artificial nesting structures (ANSs) as the primary compensation measure for the kittiwake qualifying feature of the FFC SPA. The site selection exercise used to select appropriate locations and details of the implementation and monitoring for this measure are set out in [\[APP-250\]](#). The two sites selected for the offshore ANSs are broadly to the north-west and south-east of the array area.
- C.7.78 An Offshore Artificial Nesting Structures Evidence Base and Roadmap [\[APP-256\]](#) was submitted to accompany the application, and this was updated at D4 [\[REP4-061\]](#) and at D6 [\[REP6-048\]](#). Among other matters, this provided evidence of kittiwake breeding on ANSs, including a survey that was undertaken for other offshore structures within the vicinity. Section 4 of [\[APP-256\]](#) sets out a roadmap for delivery which includes details of the design considerations, site selection process and engineering considerations.
- C.7.79 The methodology used to determine the quantum of compensation required is described in section 2 [\[APP-250\]](#). The final locations of the offshore nesting structures would be defined through the Kittiwake Compensation Steering Group and the applicant submitted in [\[PD1-098\]](#) a letter of intent to collaborate on this structure from Dogger Bank South OWF.
- C.7.80 The applicant in section 7 of [\[APP-250\]](#) concludes that the ANS provides a robust compensation measure and that the implementation and monitoring plan would be secured through the deemed marine licence (DML) within the dDCO. The MMO in [\[REP2-092\]](#) stated that this was preferable to a separate marine licence application.
- C.7.81 At D6 the applicant submitted its final versions of the Kittiwake Compensation Plan [\[REP6-042\]](#) and the Offshore Artificial Nesting Structures Evidence Base and Roadmap [\[REP6-048\]](#).

Issues raised regarding compensation measures for kittiwake of FFC SPA and the applicant's response

Deliverability of the proposed compensation measures

- C.7.82 In relation to ANSs, the RSPB in [\[RR-056\]](#) and [\[REP1-047\]](#) stated that it is yet to be a proven measure, but that its preference is for offshore nesting structures rather than onshore. The RSPB in [\[RR-056\]](#) raised several matters in relation to delivery, both how final details would be developed following DCO consent and the potential for logistical delays to the provision of the ANS. These points were also noted by the MMO in [\[REP2-092\]](#).
- C.7.83 The Applicant's Response to Relevant Representations [\[PD1-071\]](#) referenced the Offshore Artificial Nesting Structures Evidence Base and Roadmap [\[APP-256\]](#), updated in [\[REP4-061\]](#) for the design and delivery considerations. It also explained in [\[PD1-071\]](#) that in line with the Kittiwake Strategic Compensation Plan (KSCP), the

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applicant was seeking consent for the ANSs at a project level through the DCO as set out in Schedule 22 of the dDCO.

- C.7.84 In [\[REP6-151\]](#) NE states that: "... we consider that the proposed measure for the kittiwake feature of FFC SPA has reasonable prospects of delivering, despite some important details currently lacking from the Applicant's Project-led proposals." NE also commented that the installation of 2 ANSs rather than a single ANS would carry substantially less risk because the potential for nesting to take place would be spread across two separate locations.
- C.7.85 The applicant in [\[REP2-051\]](#) provided further evidence to demonstrate that the measure was sufficiently advanced with The Crown Estate and through concept (commercially sensitive) designs to be certain of its delivery. The MMO [\[REP2-092\]](#) stated it did not support the submission of a separate marine licence for the ANS, noting that nevertheless if this was to occur, that all references to the ANS should be removed from the DCO and related DMLs. No other IPs have commented on the compensation measures for the kittiwake qualifying feature of FFC SPA during the course of the examination.

Lead-in times

- C.7.86 In its change notification dated 27 November 2024 [\[REP2-064\]](#), the applicant proposed a reduction in the length of time the proposed ANSs need to be in place before operation of the proposed development from three full kittiwake breeding seasons to two full breeding seasons. Commentary on this change notification was provided by the ExA in [\[PD-016\]](#). The applicant's formal change request was submitted at D4 [\[REP4-124\]](#) and accepted into the examination by the ExA [\[PD-021a\]](#).
- C.7.87 Justification for this was provided by the applicant in [\[REP2-051\]](#) and the applicant also submitted a Lead-in periods for kittiwake breeding on Artificial Nesting Structures [\[REP2-060\]](#) to evidence its rationale for the change request to reduce the lead-in time for the ANS from 3 to 2 full kittiwake breeding seasons. As stated by the applicant in [\[REP4-104\]](#) the lead-in period represents the time prior to the effect occurring when compensation measures should be in place and effective.
- C.7.88 In [\[PD1-071\]](#) the applicant contended that there is no ecological justification in this instance with a 4-year lead-in time. The applicant argued in [\[REP2-051\]](#) that its position was to design measures that would address compensation debt over the lifetime of the project rather than through a lead-in period. In effect this would entail a degree of over-compensation throughout the life of the compensation measure to account for the increased 'compensation debt' that would result from a reduced lead-in period for its establishment. The applicant stated in [\[REP2-052\]](#) that lead-in periods for kittiwake ANS has been reduced at both Hornsea Three and Hornsea Four projects, both of which had higher predicted impacts on kittiwake than the proposed development.
- C.7.89 The applicant submitted a revised version of its Lead-In periods for kittiwake breeding on Artificial Nesting Structures at D4 [\[REP4-104\]](#) to consider matters raised by NE and to account for the acceptance of the ORBA and updated RIAA.
- C.7.90 Reference to an indicative programme for the delivery of ANSs at 2, rather than 3, full breeding seasons prior to the turning of the first turbine was made by the applicant in the D6 version at section 4.7 of the Offshore Artificial Nesting Structures

Evidence Base and Roadmap [REP6-048] and Schedule 22 of the dDCO [AS-042] references 2 full breeding seasons.

- C.7.91 NE did not agree [RR-045] that 3 breeding seasons would be sufficient. It recommended that at least 1 ANS should be in place at least 4 breeding seasons before operation of the proposed development. It also noted that productivity as well as numbers of breeding pairs should be monitored, noting the challenges of doing so offshore. NE also considered that the scale of compensation should take account of the proportion of birds likely to recruit into the NSN as well as to wider kittiwake populations.
- C.7.92 The ExA ExQ1 HRA 2.4 [PD-013] asked NE and the RSPB to comment on the lead-in times for the ANS based on a material change to the Hornsea Four offshore windfarm which reduced it from 4 to 2 full breeding seasons..
- C.7.93 In [REP2-081] the RSPB responded to ExQ1 HRA2.4 regarding the non-material change request for the Hornsea Four Order. The RSPB stated its belief that a 4-year full breeding season period before first operation of an offshore wind farm is based on kittiwake breeding ecology. It contended that 4 years is the accepted typical period of first breeding and an acknowledgement that, assuming successful colonisation in Year 1, first breeding from fledged young would be 4 years later. The RSPB argued that any shortening of the lead-in period would increase the exposure of the species to the adverse impact and also the time it would take for the compensation measure to benefit that species. The RSPB noted in [REP2-081] that the Hornsea Four material change decision resulted from delivery problems that had occurred after consent had been granted.
- C.7.94 The applicant stated in [REP4-104] that a period of time where some of what it considers to be a minor project alone impact is not being fully addressed would not lead to any meaningful depression of the colony or make it more prone to impacts of environmental change in any measurable way. Table 1 of [REP4-104] depicts a range of figures detailing, based on the applicant's preferred approach, the time period in years when the cumulative requirement would be surpassed by the cumulative output based on compensation ratios of 1:1, 1:2 and 1:3 and a structure hosting 300 apparently occupied nests.
- C.7.95 The RSPB's feedback that was cited in appendix 7, table 5 of [REP4-124], was that it objected to the proposed change given that assuming successful colonisation of the ANS in year 1, first breeding from fledged young would occur 4 years later. It considered that in shortening the lead-in time period it would not provide the time needed to benefit the species. The applicant's response as set out in appendix 7 table 5 of [REP4-124] reiterated its position that the measure would address the impact within the lifetime of the proposed development and that over the lifetime of the project, its growth model indicated that the compensation provided would outweigh the in-combination compensation requirement.
- C.7.96 At the close of the examination NE in [REP6-150] maintained its objection to the reduction of the lead-in period to 2 years. NE in [REP6-150] accepts that the provision of ANSs with at least 300 apparently occupied nest spaces would meet the compensation requirement within the lifetime of the project. However, argues that depending on the modelling scenario used the compensation requirement might not be met until well into the lifespan of the proposed development.
- C.7.97 NE in [REP6-150] contends that a four-year lead-in time is appropriate based on known kittiwake ecology and that the prospect of slow colonisation or non-

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colonisation of ANSs needs to be considered. All of this coupled with what NE considers a lack of detailed design information for the ANSs means that in its view there would be the prospect of a considerable compensation debt being accrued due to the reduced amount of time for the effects on species to begin to be compensated for.

C.7.98 Furthermore, in [\[REP6-150\]](#) NE provided its views on the issue of precedent set by other recent decisions by the SoS that have reduced the lead-in times for compensation measures on other projects. NE contended that when the non-material change requests had been granted for both Hornsea Three and Hornsea Four considerable post-consent work had been undertaken, including on ANS design.

C.7.99 Also, NE noted in [\[REP6-150\]](#) that delivery of ANSs 4 breeding seasons prior to operation had become unfeasible due to matters outside the applicant's control. In addition, NE considered that for Hornsea Three 4 ANSs were being proposed in 2 different regions, thus increasing resilience. For Hornsea Four NE noted that the current proposal is for provision of the onshore ANS 4 breeding seasons prior to operation.

'Without prejudice' compensation measures for razorbill and guillemot of the FFC SPA

C.7.100 The compensation plans submitted to accompany the application, in [\[APP-252\]](#) for guillemot and in [\[APP-255\]](#) for razorbill identify a suite of compensation measures. The applicant has submitted all of these compensation measures for auks on a 'without prejudice' basis since it does not consider there would be an AEoI for either the project alone or in-combination with other plans or projects.

C.7.101 The applicant provided updated 'without prejudice' compensatory measures for guillemot in [\[REP4-057\]](#) and razorbill in [\[REP4-060\]](#) of the FFC SPA following the ORBA change request [\[REP2-065\]](#). Updated versions of the Without Prejudice Guillemot Compensation Plan [\[REP6-044\]](#) and the Without Prejudice Razorbill Compensation Plan [\[REP6-046\]](#) were submitted at the final deadline. Among other matters, these documents explain the approach to determining the quantum of compensation the applicant identified through its assessment, the identification of potential measures, and an evaluation of the feasibility of each measure.

Predator exclusion measures at Plémont seabird reserve

C.7.102 The primary 'without prejudice' compensation measure proposed by the applicant for both guillemot and razorbill consists of predator exclusion measures. These measures comprise fencing and predator eradication to form the Plémont seabird reserve, Jersey which comprises a coastal strip of land between Plémont Bay and La Rocquerelle headland as indicated in image 4 of [\[APP-258\]](#).

C.7.103 To accompany the application a Without Prejudice Predator Control Evidence Base and Roadmap was submitted [\[APP-257\]](#), and this was updated at D4 [\[REP4-063\]](#) and D6 [\[REP6-050\]](#). The updated versions include additional details including the site selection process, details of the proposed predator-proof fencing and measures for the control of non-native predators.

C.7.104 The applicant states in [\[APP-257\]](#) that there is no current breeding population of guillemot at the Plémont seabird reserve and the current razorbill population is 27 individuals nesting on the cliffs.

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Offshore Artificial Nesting Structures

- C.7.105 As set out in the Offshore Artificial Nesting Structures Evidence Base and Roadmap [\[APP-256\]](#) the applicant considers that the offshore ANSs that have been proposed for kittiwake could also support breeding guillemot and razorbill. The applicant has provided evidence including photographs of both species breeding on offshore structures in the southern North Sea. The species-specific design considerations for guillemot and razorbill (as well as kittiwake) are set out in table 4.1 of [\[APP-256\]](#).
- C.7.106 Updated versions of the Offshore Artificial Nesting Structures Evidence Base and Roadmap were submitted at D4 [\[REP4-061\]](#) and D6 [\[REP6-048\]](#).

Additional measures at the ‘south-west’ sites

- C.7.107 To accompany the application a Without Prejudice Additional Measures for Compensation of Razorbill and Guillemot [\[APP-259\]](#) was submitted. This document was updated at D4 [\[REP4-065\]](#), D4a [\[REP4a-071\]](#), at D5 [\[REP5-111\]](#) and D6 [\[REP6-052\]](#).
- C.7.108 The applicant proposed measures at sites in south-west England in [\[APP-259\]](#), should further compensation be required. Initially in [\[APP-259\]](#) 6 sites were identified, but in its D4 submission [\[REP4-065\]](#) 8 sites were identified on the Devon and Cornwall coast.
- C.7.109 By the close of the examination, as indicated in [\[REP6-052\]](#), the suite of overall measures for the 8 sites would comprise vessel restrictions, education and outreach programmes, habitat management and avian disturbance management. The measures for each of the sites would vary depending on their applicability. For example, it is noted that for some sites there would be little opportunity for improvements through the removal of vegetation in nesting areas.
- C.7.110 Tables 7.1 and 7.2 of [\[REP6-052\]](#) contain the applicant's predicted compensation figures across all of the 8 south-west sites for guillemot and razorbill based on both high and low compensation scenarios. With the worst-case, low scenario the applicant predicts an additional 768 guillemot pairs and an additional 114 razorbill pairs [\[REP6-052\]](#).
- C.7.111 In the D5 version annexes of [\[REP5-111\]](#) letters of comfort have been included from a number of landowners and managing bodies of the proposed sites including Torbay Coast and Countryside Trust and Cornwall Wildlife Trust. Among other matters, these letters confirmed services that would be provided and indicated permission for certain works, such as laying seasonal marker buoys, to be undertaken.

Issues raised regarding without prejudice compensation measures for razorbill and guillemot of the FFC SPA and the applicant's response

Plémont seabird reserve

- C.7.112 NE in its relevant representation [\[RR-045\]](#) and in [\[REP1-061\]](#) and the RSPB in [\[RR-056\]](#) and [\[REP1-047\]](#) raised concerns around the evidence for any connectivity between FFC SPA and the reserve. In response to this the applicant stated in [\[PD1-071\]](#) and [\[REP3-038\]](#) that the SoS was satisfied that connectivity was established with the NSN for proposed compensation measures at Alderney and that philopatry rates suggest a proportion of birds move to different colonies.

- C.7.113 NE in [\[RR-045\]](#) and [\[REP2-094\]](#) and the RSPB in [\[RR-056\]](#) were also concerned about the technical feasibility, arguing that the success of predator control for mainland locations was less proven, may require greater ongoing maintenance and there is a greater likelihood of re-incursion from predators.
- C.7.114 In addition, the RSPB in [\[REP1-047\]](#) questioned evidence of the link between the presence of invasive non-native species such as ferrets and decline in the guillemot and razorbill populations, and also queried the degree of public support for predator eradication measures. Furthermore, the RSPB in [\[RR-056\]](#) questioned the applicant's assumption on colony growth and sought clarification of the impact from other predator eradication programmes elsewhere in the Channel Islands.
- C.7.115 In [\[REP3-054\]](#) the applicant responded to state that historical evidence indicates that declines in both guillemot and razorbill around the Plémont Seabird Reserve correspond with the first records and subsequent increases in ferrets in the area. The applicant also noted that camera surveys had indicated the presence of ferret, rat, hedgehog and feral cat all within the area [\[REP4a-115\]](#). Also, in [\[PD1-071\]](#) the applicant noted that guillemots are regularly observed within the Plémont area during the breeding season.
- C.7.116 In response to the issue of public support the applicant in [\[REP3-038\]](#) indicated that 4 surveys had been undertaken between 2018 to 2023 which indicated the majority of stakeholders and the public support the proposals at Plémont seabird reserve. In [\[PD1-071\]](#) the applicant noted that permission had been granted in principle to install the predator proof fence.
- C.7.117 At ExQ1 HRA 2.5 HRA 2.6 HRA 2.7 [\[PD-013\]](#) and ExQ2 HRA 2.4 [\[PD-020\]](#), the ExA asked several questions of the applicant in relation to plans for the reserve to understand when the measures proposed would be in place, whether they were being considered by other 'live' windfarm applications, and to justify the appropriateness of the measure for auks given there is no current breeding populations of guillemot at the reserve.
- C.7.118 At D2, the applicant provided an update on the agreements in place to progress the Plémont Seabird Reserve measures [\[REP2-051\]](#), concluding it was confident that these would be deliverable. The applicant also noted that the agreements were exclusive to the proposed development and not for other windfarms. The applicant proposes to also fund work in 2025 and 2026 to encourage colonisation of the reserve by both razorbill and guillemot, and has provided further details of progress on these matters in its D4 response to ExQ2 [\[REP4-107\]](#).
- C.7.119 At D4, NE noted [\[REP4-140\]](#) that the extent of the applicant's proposed predator exclusion fencing had been confirmed by the applicant in its updated Predator Control Evidence Base and Roadmap document [\[REP2-025\]](#). This updated version provided, among other matters, further details of the fence design and location, a management plan and biosecurity measures to avoid the risk of a re-incursion of predators using the shoreline.
- C.7.120 In response to [\[REP2-025\]](#) NE was concerned that at 3.34ha the area to be enclosed was substantially less than the 32.3ha that originally identified in the Plémont Seabird Reserve Feasibility Study Report [\[APP-257\]](#).
- C.7.121 The applicant responded to this reduction in area in [\[REP4a-115\]](#) by arguing that: "Although the area to be fenced has been reduced to 3.34 ha, the area to be protected within this fence captures the headlands of Creux Gros and Creux

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Gabourel, the locations of historical records of guillemot and a significant proportion of the current breeding population of razorbill. As such, the Applicant is confident that the reduced area to be fenced can provide the required compensation when using the Applicants preferred approach.”

- C.7.122 In its final submission Appendix G5 [\[REP6-151\]](#) NE objected to each of the proposed compensation measures for auks if taken as a sole measure to compensate for auks of FFC SPA. In relation to the Plémont seabird reserve, as detailed in table 1 of [\[REP6-151\]](#) NE’s concerns remained regarding how measures at the reserve could compensate for impacts to the FFC SPA colonies of guillemot and razorbill as well as the scale and technical feasibilities of predator proof fencing being able to exclude future incursions of predators.
- C.7.123 However, NE reported in its final Appendix G5 submission [\[REP6-151\]](#) that: “Despite the merits of having multiple measures, we consider that the package as currently proposed is unlikely to provide the required level of benefit, as per NE’s impact values, without significant further development of the measures.” NE went on to set out a series of improvements or additional details that it considers would strengthen the compensation measures.
- C.7.124 In the final Statement of Common Ground (SoCG) between the applicant and the RSPB [\[REP6-099\]](#) the compensation measures for the Plémont seabird reserve were not agreed. The RSPB’s concerns remain regarding connectivity with the FFC SPA, the potential for predator re-incursion and the inability to accurately predict the breeding response of guillemot and razorbill at the reserve.
- C.7.125 A relevant representation [\[RR-009\]](#) from Birds on the Edge, the partnership establishing the reserve for the National Trust Jersey, confirms a commitment to work with the applicant on this site.

Offshore Artificial Nesting Structures

- C.7.126 The provision of auk nesting on the ANSs (with a preference for offshore, but onshore structures also retained as a potential adaptive management measure) for both guillemot and razorbill of the FFC SPA has also been proposed as a without prejudice compensation measure should the SoS determine a greater level of compensation for auks is required [\[REP4-061\]](#).
- C.7.127 With regard to ANSs, NE highlighted [\[RR-045\]](#), table 3], that, unlike for kittiwake, ANS are unproven for auk species, and it therefore recommended that this measure should not be relied upon to satisfy the compensation requirement for guillemot and razorbill alone. Furthermore, NE considered that more than 1 structure was needed for resilience, although it noted that it considers the measure to be potentially acceptable as a secondary compensation measure.
- C.7.128 NE also noted [\[RR-045\]](#) that the applicant had not specified the lead-in time for the provision of ANS for auk species, recommending that for guillemot and razorbill, the compensation should be in place prior to construction beginning and a longer lead-in time is required, due to the uncertainties with how long the measures may take to demonstrate benefits. NE reiterated this concern in its responses at D4 [\[REP4-140\]](#).
- C.7.129 With the exception of NE and the RSPB, no other IPs have commented on the compensation measures for guillemot and razorbill qualifying features of FFC SPA during the course of the examination.

Additional compensation measures for auks – the south-west sites

- C.7.130 In [\[RR-056\]](#) the RSPB noted that disturbance at breeding sites can occur from recreational use but raised issues regarding the evidence base used to support this measure, including the lack of site surveys and evidence of recreational use causing impacts at these sites and a lack of specific measures in the applicant's original submission [\[APP-259\]](#). NE recommended in [\[REP1-064\]](#) that the applicant collect baseline data to establish the current abundance and productivity of auks at the potential south-west of England sites against which any success of these measures could then be measured.
- C.7.131 In response to concerns that had been raised by both NE and the RSPB about the lack of detailed information on the proposed additional measures, including site survey information the applicant submitted an updated version of the Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill [\[REP4-065\]](#). This updated version contained substantial amendments from the version that was originally submitted to accompany the application [\[APP-259\]](#), including information from a 2024 breeding season guillemot and razorbill survey. The applicant also noted that the survey work helped to identify the nature and scope of any sources of disturbance. This survey information was used to further develop site-specific management measures for 8 sites in Devon and Cornwall.
- C.7.132 The RSPB in its final submission [\[REP6-138\]](#) welcomed the applicant's 2024 survey work. However, the RSPB considers that this survey does not constitute a robust evidence base that establishes whether a decline in the breeding populations at each of these colonies is due to anthropogenic pressures. The RSPB considers in [\[REP6-138\]](#) that more detailed scientific study is required, without which it would be premature to conclude whether the measures identified by the applicant would prove effective, the extent of any such improvement would be and to what extent these measures would be scalable. In the final SoCG [\[REP6-099\]](#) the RSPB welcomed the site survey work undertaken by the applicant but considered that considerably more scientific study will be required and therefore considered it premature to place reliance on the predicted population benefits.
- C.7.133 The National Trust [\[RR-047\]](#) confirmed it was in early discussions with the applicant to use its land for these measures, but did not consider that the measures were developed enough to allow it to comment on whether it would support the proposals.

Compensation measures for guillemot of the Farne Islands SPA

- C.7.134 At D6 the applicant updated its Without Prejudice Guillemot Compensation Plan [\[REP6-044\]](#) to specifically include compensation measures for the guillemot feature of the Farne Islands SPA on a without prejudice basis. The applicant states in paragraph 24 of [\[REP6-044\]](#) that the predicted impact from the project alone would be 1.7 birds using its preferred approach. The compensation measures proposed by the applicant are the same as the suite of measures for guillemot and razorbill of the FFC SPA.

Issues raised regarding compensation measures for guillemot of the Farne Islands SPA and the applicant's response

- C.7.135 The applicant's inclusion of references to the Farne Islands SPA in the relevant compensation documents submitted at D6 was made in response to views expressed by the RSPB in [\[REP5-160\]](#) and NE in [\[REP5-172\]](#) that an in-combination AEoI on the guillemot qualifying feature of the Farne Islands SPA could not be ruled out.

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- C.7.136 The applicant's proposed measures would be the same as for guillemot and razorbill of the FFC SPA; and therefore similar objections from NE and the RSPB apply.
- C.7.137 In response to the ExA's Rule 17 of 21 March 2025 [\[PD-028\]](#) NE stated in its D6 submission Appendix K4 [\[REP5-155\]](#) that: "The Applicant's mortality impacts on Farne Islands SPA are less than 1% of those predicted for FFC SPA. It follows that if the Applicant can deliver the scale of compensation needed for FFC SPA through its package of measures (Plémont, South West England, ANS nest spaces), delivering sufficient compensation for Farne Islands SPA should also be achievable. The key issue here is that, at present, the proposed compensation measures do not inspire sufficient confidence that they will likely deliver sufficient benefit to FFC SPA."
- C.7.138 As an overall position in its final SoCG [\[REP6-099\]](#) the RSPB stated that the compensation measures for auks could not be relied on as compensation as uncertainties still remained and therefore did not accept that the suite of proposed compensation measures would be effective.
- C.7.139 NE's final view, as reported in [\[REP6-151\]](#) is that for both the FFC SPA and the Farne Islands SPA it does not have confidence in the ability of the predator control measures at Plémont seabird reserve to deliver compensation for these SPA colonies. NE considers that for guillemot in particular the reduction in size of the fenced area to 3.34ha would play a key limiting role in re-establishing a breeding colony.

The future deliverability of the proposed compensation measures, including adaptive management measures

- C.7.140 Both NE, for example in [\[REP1-064\]](#) and the RSPB in [\[RR-056\]](#) raised concerns about the deliverability 'on the ground' of the compensation measures, and how any adaptive management requirements would be accounted for and implemented. NE raised concerns about the skeleton nature of the species-specific Compensation and Implementation Plans that had been submitted to accompany the application.
- C.7.141 The applicant responded to NE's and the RSPB's initial concerns in [\[PD1-071\]](#) and stated that details of the ongoing monitoring and adaptive management would be provided when they had been finalised. The applicant noted in [\[PD1-071\]](#) that as set out in the Without Prejudice Predator Control Evidence Base and Roadmap it had committed to a monitoring plan throughout the lifetime of the measure and an adaptive management plan. Also, in [\[REP4a-115\]](#) the applicant stated a full implementation, monitoring and adaptive management programme will be developed in collaboration with the relevant Compensation Steering Groups as required within Schedule 22 of the dDCO.
- C.7.142 By the close of the examination as indicated in [\[REP6-151\]](#) there were still areas of disagreement between the applicant and NE in this regard, including over monitoring methodology and adaptive management measures for the offshore ANSs for guillemot and razorbill. NE in its final submission Appendix G5 [\[REP6-151\]](#) maintained its concern that the species-specific compensation and implementation plans are only in outline form. NE contends that this increases the uncertainty around the ability of the compensation requirements, including any adaptive management measures, to be delivered.

- C.7.143 As detailed in the final SoCG [\[REP6-099\]](#) the RSPB considered uncertainties remain and further information on the compensation measures is required, include risks to deliverability, especially given the experimental nature of the measures.

Disagreement over the levels of compensation to be provided

Kittiwake

- C.7.144 As regards the quantum of compensation for kittiwake, table 8.1 of the Kittiwake Strategic Compensation Plan [\[APP-260\]](#) sets out figures for the proposed development although it is noted in para 8.2.10 that these figures are yet to be agreed with NE. For the proposed development table 8.1 of the Kittiwake Strategic Compensation Plan [\[APP-260\]](#) calculates an annual FFC SPA apportioned impact of 56.56 individuals which would equate to 151.05 pairs required to offset the impact using the 'Hornsea Four' approach or 312.95 pairs using the 'Hornsea Three' approach.
- C.7.145 For the purposes of informing the compensation scale, as reported in [\[APP-260\]](#) the Steering Group agreed an envelope approach defined for the purposes of this KSCP to provide a lower and upper limit which will be refined further and defined via a Kittiwake Strategic Implementation and Monitoring Plan. In section 8.3 of [\[APP-260\]](#) a compensation ratio of 1:1 is proposed "...for the purposes of informing planning at this stage."
- C.7.146 In [\[REP5-167\]](#) NE considers that for kittiwake the Hornsea 3 part 2 method for remains the most complete method of scaling compensation requirements. NE also stated its view of the pressing need for independent expert advice on this matter and believes that this is a matter that would continue to be explored beyond the close of this examination.
- C.7.147 In table 2.1 of the final version of the Kittiwake Compensation Plan [\[REP6-042\]](#) the applicant has set out the potential kittiwake compensation requirements based on its preferred methodology and that of NE.

Table 2: Kittiwake compensation requirement calculations

Predicted impact	Calculation method	Compensation requirement (breeding pairs)	2:1 compensation ratio (breeding pairs)	3:1 compensation ratio (breeding pairs)
15.5	Hornsea 4 (applicant)	41.8	83.7	125.5
15.5 (lower limit)	Hornsea 3 'part 2' (NE)	102.4	204.8	307.2
41.0 (UCI)	Hornsea 3 'part 2' (NE)	270.9	541.9	812.9

- C.7.148 As indicated in the table above, the potential compensation requirements for kittiwake of FFC SPA range from 41.8 breeding pairs to 812.9 breeding pairs. The applicant in [\[REP6-048\]](#) references the Kittiwake Strategic Compensation Plan which a lower limit of 2,500 nesting spaces and an upper limit of 5,000 nesting

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spaces across up to 2 offshore ANSS. This would represent the contribution from the proposed development plus the Dogger Bank South-East and Dogger Bank South-West projects.

- C.7.149 In [\[REP6-048\]](#) the applicant considers that: “The ANS for the Project could be designed to deliver all of this requirement range, with the quantum required dependent on the final decision by the Secretary of State.”

Guillemot and razorbill

- C.7.150 The applicant in [\[REP3-049\]](#) set out its methodology and calculations for the quanta of compensation that it considers is needed for guillemot and razorbill of the FFC SPA. This document provided the applicant’s views on the application of the precautionary principle which is an issue that has been discussed elsewhere in this Recommendation.
- C.7.151 Further versions of the Guillemot and Razorbill Compensation Quanta were provided in [\[REP4a-108\]](#), [\[REP5-143\]](#) and [\[REP6-102\]](#). The applicant updated its final Guillemot and Razorbill and Compensation Quanta document in response to NE’s Appendix G3 submission [\[REP5-167\]](#).
- C.7.152 In [\[REP5-167\]](#) NE altered its previous preference for the ‘Hornsea Three’ approach to calculating compensation and stated that: “... *it is appropriate for the Hornsea 4 (‘H4’)...method to be used. This should be carried out in conjunction with the use of the 95% upper confidence level (UCL) predicted impact value and the application of a suitable ratio to address the uncertainty of success, set on a case by case basis. The mean or central impact value should be used to inform and define success criteria, if appropriate.*”
- C.7.153 In table 4-5 of [\[REP6-048\]](#) the applicant calculates that for the guillemot of the FFC SPA and the Farne Islands SPA using the application’s preferred approach would equate to an impact of 19.9 mortalities (18.2 mortalities for guillemot of the FFC SPA only) and a consequent compensation requirement of 84.6 pairs (at a 1:1 ratio).
- C.7.154 Using NE’s preferred approach, the applicant calculates an impact of 377.9 guillemot mortalities for FFC SPA and the Farne Islands and a subsequent compensation requirement of 1,605.8 pairs (at a 1:1 ratio).
- C.7.155 For razorbill of FFC SPA, as indicated in table 4.6 of [\[REP6-048\]](#) the impacts using the applicant’s preferred approach would be 10.5 mortalities with a compensation requirement of 92.0 pairs at a 1:1 ratio.
- C.7.156 Using NE’s preferred methodology, the applicant calculates the impact to be 108.1 razorbill mortalities with a compensation requirement of 946.9 pairs at a 1:1 compensation ratio.
- C.7.157 In table 10 of the Guillemot and Razorbill Compensation Quanta [\[REP6-102\]](#) the applicant sets out its estimated compensation potential across all measures as follows:
- 3,196 pairs for guillemot
 - 1,932 pairs for razorbill
- C.7.158 The applicant goes on to state in paragraph 100 of [\[REP6-048\]](#) that should compensation be required for guillemot and razorbill then the Plémont seabird

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reserve could deliver the full amount based on the applicant's calculations. It is the applicant's view that should the SoS determine that a higher quantum of compensation is required then a combination of all 3 proposed measures (Plémont seabird reserve, offshore ANSs and the south-west sites) could be used.

The applicability of the Marine Recovery Fund

- C.7.159 The recent interim guidance on the MRF lists as approved measures for ornithological compensation offshore ANSs specific to kittiwake and predator reduction. The interim guidance goes on to state that: *"Where applicants wish to rely on offshore ANSs for potential adverse effects on kittiwake ahead of the MRF being operational, they will need to be able to deliver the measure themselves, or in collaboration with other projects"*.
- C.7.160 In the final versions of relevant submitted documents such as the Without Prejudice Guillemot Compensation Plan [\[REP6-044\]](#) and the Kittiwake Compensation Plan [\[REP6-042\]](#) the applicant has made reference to the MRF and stated its belief that compensation at the strategic level has the potential to enable the greatest ecological benefit to the National Site Network. The applicant considers that the evidence collated for the respective project-alone compensation measures would be equally valid for the purposes of the strategic delivery of these measures [\[REP6-044\]](#).
- C.7.161 In Annexes 6 and 7 of [\[REP5-111\]](#) letters were also included from the Offshore Wind Industry Council and the Department for Environment, Food and Rural Affairs (DEFRA) regarding predator eradication measures on the Isles of Scilly as a potential strategic compensation measure.

ExA's reasoning on compensation measures

The ExA's reasoning in relation to Kittiwake of FFC SPA

- C.7.162 By the close of the examination NE as reported in [\[REP6-151\]](#) agrees that the provision of up to 2 offshore ANSs would be suitable as a sole compensatory measure for kittiwake of the FFC SPA. This position is not entirely shared by the RSPB, who as reported in its final SoCG [\[REP6-099\]](#), considers that ANSs are yet to be proven as an effective compensation measure, and that further information on the design implementation and monitoring processes is required.
- C.7.163 In regard to the RSPB's concerns about the detailed information yet to be provided, the ExA is of the view that the applicant has provided a sufficient level of information in order to allow the SoS to reach an informed decision. Furthermore, the final versions of the Roadmap [\[REP6-048\]](#) and Kittiwake Compensation Plan [\[REP6-042\]](#), together with the mechanism for implementation secured in Schedule 22 of the dDCO, set out what the ExA considers to be an acceptable process for the future detailed design, implementation and monitoring of the offshore ANSs.
- C.7.164 The ExA considers that the applicant has undertaken a sufficiently robust process of site selection and that an adequate amount of funding for the kittiwake compensation has been identified.
- C.7.165 The main outstanding objection from both NE and the RSPB for the proposed kittiwake compensation is in relation to the lead-in period for the installation of the offshore ANSs. Both NE and the RSPB state a strong preference for 4 full kittiwake breeding seasons, in NE's case this is for at least 1 of the ANSs. However, during the course of the examination the applicant proposed a change to a lead-in time of 2

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full breeding seasons, which represents a reduction from the 3 full breeding seasons lead-in time it had originally sought.

- C.7.166 The ExA considers that there remains a degree of debate over the quantum of compensation for kittiwake that should be provided. Furthermore, whilst the overall likelihood of offshore ANSs being able to provide compensation for kittiwake has not been called into question, until the structures are installed there remains some uncertainty over the period of time it will take to recoup the compensation debt. As indicated in table 1 of [\[REP4-104\]](#) using the applicant's preferred approach the different time periods at which the cumulative compensation requirement would be surpassed by the cumulative output would vary from 0 years, to a worst-case of 24 years assuming a 0-year lead-in period and a 1:3 compensation ratio.
- C.7.167 All parties acknowledge that the longer the lead-in time then the shorter the time it would take to account for the compensation debt. As set out in table 1 of [\[REP4-104\]](#) the difference between a 2-year and 3-year lead-in period would appear to be particularly significant when applying a 1:1 ratio as this would equate to a reduction from 9 years for the surpassing of the cumulative output down to 3 years at this same ratio. The ExA considers that this element of uncertainty needs to be properly accounted for, particularly as the installation of up to 2 offshore ANSs is the primary compensation measure proposed for kittiwake of the FFC SPA.
- C.7.168 In reaching this decision the ExA is aware that the applicant has cited what it considers to be recent precedents for a 2-year lead-in period from other recent SoS decisions. However, the ExA concurs with the views expressed by NE that since these other projects have proposed onshore ANSs across multiple sites they would not represent a clear comparison with the proposed development. Also, it would appear that logistical and construction programme constraints formed part of the reason for the change requests for these other projects. The ExA is not aware of such difficulties at this stage for the proposed development. However, the ExA also notes that as set out in table 1 of [\[REP4-104\]](#) a 4-year lead-in period, as requested by NE and the RSPB, would not substantially reduce the period after which the cumulative requirement would be surpassed compared to a 3-year lead-in period, especially for a 1:1 ratio.
- C.7.169 Taking this into account, the ExA considers that an appropriate lead-in period should be the 3 full kittiwake breeding seasons that the applicant had originally proposed in the application as submitted. This would strike an appropriate balance between the preference of the applicant, and it would thereby help to reduce the potential for any construction delays, and the preferences of NE and the RSPB. As such the ExA considers this time period would also allow for the reasonable degree of uncertainty over colonisation rates at offshore ANSs to be better accounted for at an earlier stage within the overall operational lifetime of the ANSs.
- C.7.170 Consequently, the ExA considers that the Schedule 22 Part 1, 4(a)(iii) and 5 of the dDCO [\[AS-042\]](#) should be amended to refer to 3 full kittiwake breeding seasons prior to the operation of any turbine forming part of the authorised development. The ExA is aware that this revised time period would then conflict with the 2 years that has been referenced in, for example paragraph 107 of the final version of the Offshore Artificial Nesting Structures Evidence Base and Roadmap [\[REP6-048\]](#). However, as Kittiwake Compensation and Implementation Plan is to be submitted for the approval of the SoS following consultation with the Kittiwake Compensation Steering Group, the ExA considers that this matter has been adequately secured in the rDCO.

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The ExA's reasoning in relation to guillemot and razorbill of FFC SPA and guillemot of the Farne Islands SPA

- C.7.171 For the guillemot and razorbill features of the FFC SPA, and their status as part of the seabird assemblage for the FFC SPA, and the guillemot feature of the Farne Islands SPA the applicant has provided compensation measures on a without prejudice basis.
- C.7.172 By the close of the examination, as stated in [\[REP6-151\]](#) NE's final view remains that none of the proposed without prejudice compensation measures for auks would be acceptable on their own. In addition, NE in [\[REP6-151\]](#) maintained significant concerns about the deliverability and technical feasibility of the predator control measures at the Plémont seabird reserve. NE also maintained its concerns over the size of the area to be fenced and the lack of detailed analysis of the amount of suitable nesting habitat that could be made available within the fenced area.
- C.7.173 NE had fewer significant concerns (those allocated a red colour coding in [\[REP6-151\]](#)) regarding either the offshore ANSs or the south-west sites as proposed compensation measures. NE's main concerns being the lack of a concept design for the offshore ANSs, the proposed lead-in time for the installation and specific monitoring for auks on the offshore ANSs. NE also considers that neither the offshore ANSs nor the measures at the south-west sites would be suitable as sole measures.
- C.7.174 However, the ExA considers that the applicant has provided a clearly reasoned and detailed argument in support of its proposed compensation measures for guillemot and razorbill. The ExA welcomes the applicant's inclusion of updated information during the course of the examination, for example for the South-West sites.
- C.7.175 The ExA recognises that at the present time the overall success of the compensation measures, either individually or as a package, cannot be predicted with absolute certainty due to relatively few similar measures having been undertaken so far. Furthermore, until they have been fully implemented and appropriately monitored then their success cannot be ascertained. This time lag between the predicted assessment and actual evidence of effects is an inevitable situation for any new measures that are being developed.
- C.7.176 However, the fact that both ANSs (albeit for kittiwake) and predator control are listed as approved measures in the interim guidance for strategic compensation³ gives the ExA confidence that these could also work at the project-specific scale. In addition, as different measures in different geographical locations have been proposed, in the ExA's view, this adds weight to the likelihood of the applicant being able to provide an overall adequate degree of compensation.
- C.7.177 In reaching this view, the ExA considers that the applicant has provided a sufficient level of detail which includes a commitment to monitoring, and the use of adaptive management measures if required. It is the ExA's view that such a commitment has been properly secured through the wording of Schedule 22 of the final dDCO [\[AS-042\]](#) and the various relevant documents that have been submitted and which are certified under article 41 and are referenced in Schedule 21 of the dDCO [\[AS-042\]](#). This provides further comfort to the ExA that an effective process will be put in place

³ Department for Energy Security & Net Zero (January 2025) 'Strategic compensation measures for offshore wind activities: Marine Recovery Fund interim guidance'

to ensure the effects of the proposed development on the relevant SPA colonies of guillemot and razorbill would be adequately compensated for.

- C.7.178 Furthermore, the ExA considers that the compensation measures would also provide effective compensation for the guillemot feature of the Farne Islands SPA and as part of the overall Farne Islands seabird assemblage. This is particularly the case, given the low number of predicted guillemot mortalities of the Farne Islands SPA from the project alone.
- C.7.179 It is therefore the ExA's view that if taken together all the suite of compensation measures for the guillemot and razorbill features of the FFC SPA (and as part of the seabird assemblage) and the guillemot qualifying feature of the Farne Islands SPA would be adequate and have been appropriately secured in the dDCO [\[AS-042\]](#). The ExA therefore concludes that the requirements of paragraphs 2.8.265 to 2.8.275 of NPS EN-3, which relate to compensatory measures, have been met.

The ExA's reasoning in relation to the future deliverability of the proposed compensation measures, including adaptive management measures

- C.7.180 At the close of the examination a final signed, SoCG has not been agreed between the applicant and NE. As such, the ExA affords little weight to the draft SoCG that the applicant has submitted on Offshore Ornithology Compensation [\[REP6-094\]](#). Furthermore, the Risk and Issues log that NE had maintained throughout the examination did not contain final positions regarding the 'RAG' status at D6.
- C.7.181 Consequently, NE's main updated commentary on issues pertaining to compensation measures for offshore ornithology is contained within its Appendix G5 [\[REP6-151\]](#). In [\[REP6-151\]](#) NE maintained its concerns over the 'skeleton' nature of the Outline CIMPs. The ExA is aware that the various CIMPs, for example the Outline Kittiwake CIMP [\[APP-251\]](#) have not been updated from those submitted to accompany the application.
- C.7.182 However, the ExA is cognisant of the wording of the interim guidance on strategic compensation measures for offshore wind activities which states that applicants should work with SNCBs in conjunction with the relevant regulators and stakeholders: "... to develop, as normal as part of their DCO application, a without prejudice compensation plan to submit with their application, and an outline Implementation and Monitoring Plan. A full Implementation and Monitoring Plan will need to be developed to submit to DESNZ Secretary of State once development consent has been granted."
- C.7.183 The ExA notes that final versions of the species-specific Compensation Plans such as the Without Prejudice Razorbill Compensation Plan [\[REP6-046\]](#) and the Evidence Base and Roadmap documents for ANSs [\[REP6-048\]](#), predator control [\[REP6-050\]](#) and additional measures for compensation of guillemot and razorbill [\[REP6-052\]](#) have all been submitted at D6. The ExA considers that by D6 all of these documents contain a sufficient level of detail, including adaptive management measures, to provide confidence in the deliverability of the various compensation measures.
- C.7.184 Furthermore, it is the ExA's view that Schedule 22 of the dDCO [\[AS-042\]](#) provides a robust mechanism for securing the compensation measures. This includes the formation of Compensation Steering Groups for kittiwake, guillemot and razorbill to inform the submission of the respective CIMPs. Schedule 22 of the dDCO specifically references the requirement for annual reporting to be provided to the

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SoS which shall include the identification of any barriers to success and adaptive management measures.

- C.7.185 Taking all of this into account, the ExA considers that an appropriate level of information regarding the deliverability of the project-specific compensation measures, including the potential for adaptive management measures, is secured in the dDCO.

The ExA's reasoning on the levels of compensation to be provided

- C.7.186 Based on evidence from bespoke onshore structures and other offshore structures where kittiwake nest, as referenced by the applicant in [\[REP6-048\]](#), the ExA considers that this compensation measure has a good likelihood of successfully providing sufficient nesting spaces for kittiwake. Therefore, for kittiwake of the FFC SPA (and as part of the FFC SPA seabird assemblage) the ExA agrees with the applicant's contention that up to 2 offshore ANSs would be capable of delivering even the worst-case scenario of 812.9 breeding pairs.
- C.7.187 In terms of the compensation requirement, it is the ExA's view that adopting NE's preferred Hornsea 3 'part 2' calculation method and based on the NE's preferred methodological approach of using the upper 95% confidence interval then a predicted impact of 41.0 kittiwake mortalities would need to be compensated for. The ExA considers that a 2:1 ratio is preferable as it would provide a reasonable degree of precaution whilst taking into account the additional precaution that is inherent in NE's preferred assessment methodology. Also, the ExA notes that a 2:1 compensation ratio is what has been accepted by the SoS in the Dudgeon and Sheringham extension projects, albeit for onshore ANS.
- C.7.188 For guillemot and razorbill, by the close of the examination agreement has been reached between the applicant and NE over the use of the Hornsea 4 method for the calculation of compensation.
- C.7.189 As indicated in tables 3 to 7 of [\[REP6-102\]](#) the predicted mortalities to be compensated for would be 18.2 guillemot individuals (including the month of April) and 10.5 razorbill of the FFC SPA using the applicant's approach. Using NE's preferred approach, the impact would be 375.2 guillemot and 108.1 razorbill individuals of the FFC SPA.
- C.7.190 Consequently, as set out in table 11 of [\[REP6-102\]](#) the figures for both guillemot and razorbill required to be compensated for varies substantially between the applicant's preferred approach and NE's. The applicant calculates a requirement of 77.4 guillemot pairs and 92.0 razorbill pairs at a 1:1 ratio, whilst NE's approach equates to 1,594.3 guillemot pairs (1,605.8 including the Farne Islands SPA) and 964.9 razorbill pairs at a 1:1 ratio.
- C.7.191 The applicant's preferred approach relies on taking into account a number of methodological considerations, as set out in table 1 of [\[REP6-102\]](#) which the ExA has already reported on. As such, the ExA considers that in order to account for a suitable degree of precaution in the assessment of impacts, NE's approach to the calculation of predicted annual mortalities is preferred. However, as that represents a precautionary approach the ExA also considers that the application of a 1:1 compensation ration would be appropriate.
- C.7.192 The ExA therefore concludes that the compensation requirements for guillemot of the FFC SPA (and as part of the seabird assemblage) and guillemot of the Farne

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Islands SPA should be 1,605.8 guillemot pairs and for razorbill of the FFC SPA (and as part of the seabird assemblage) the compensation requirement should be 964.9 pairs. Furthermore, the ExA has no substantive reason to disagree with the applicant's assertion that this quantum of compensation can be provided from the 3 proposed compensation measures for guillemot and razorbill (Plémont seabird reserve, offshore ANSs and the south-west sites) if taken together.

The ExA's reasoning on the applicability of the Marine Recovery Fund

- C.7.193 The ExA acknowledges that whilst the applicant has made reference to the potential future use of the Marine Recovery Fund, it has provided project-specific measures, including those on a 'without prejudice' basis. The ExA notes that the use of the Marine Recovery Fund is yet to be confirmed at a national level and therefore agrees with the applicant's approach in this regard.

The ExA's overall conclusion on offshore ornithology compensation measures

- C.7.194 The ExA considers that with the amendment to the lead-in time for the ANSs being 3 full kittiwake breeding seasons rather than 2, then the timing of the proposed compensation of up to 2 offshore ANSs as a compensatory measure for kittiwake of the FFC SPA, guillemot and razorbill of the FFC SPA and guillemot of the Farne Islands would be acceptable. The ExA also considers that the proposed compensation measures for guillemot and razorbill would be additional to any day-to-day necessary site management activities at either the Plémont seabird reserve or the south-west sites.
- C.7.195 The ExA concludes that the applicant has demonstrated that the proposed compensation measures for kittiwake of the FFC SPA (and as part of the FFC SPA seabird assemblage) would be capable of providing an appropriate level of compensation.
- C.7.196 Also, if implemented together as a suite of compensation measures, the ExA concludes that the applicant has also demonstrated that the proposed measures for guillemot and razorbill of FFC SPA (and as part of the FFC SPA seabird assemblage) and guillemot of the Farne Islands SPA (and as part of the Farne Islands SPA assemblage) would be capable of providing an appropriate level of compensation for the impacts of the proposed development that have been identified. This would also be the case even if the worst-case figures, based on NE's preferred methodology, for the quantum of compensation for kittiwake, razorbill and guillemot were to be applied.
- C.7.197 Taking all of the above considerations into account, the ExA considers that there is sufficient information for the SoS to establish that appropriate compensatory measures can be implemented, in order to fulfil their duty under the requirements of The Habitats Regulations. The ExA concludes that the overall package of proposed compensation measures is feasible, appropriate, deliverable and has been adequately secured in the rDCO and would ultimately ensure the overall coherence of the UK National Site Network. In this regard the ExA is able to conclude that the relevant requirements of NPS EN-1 and NPS EN-3 have been met.

C.8 HRA CONCLUSIONS

- C.8.1 The proposed development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with

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respect to adverse effects on potentially affected sites must be assessed by the SoS.

- C.8.2 Table 7-1 of the applicant's RIAA [\[REP6-028\]](#) lists the sites and qualifying features considered in the applicant's assessment both from the proposed development alone and in-combination with other plans or projects.
- C.8.3 The methodology and outcomes of the applicant's screening for LSE on European sites was subject to some discussion and scrutiny, however, the sites and features for which LSE were identified were not disputed by any IP. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.
- C.8.4 The ExA's findings are that, subject to the mitigation measures that have been secured in the ExA's recommended DCO, AEoI on the European sites listed in section C4 of this appendix from the proposed development when considered alone or in-combination with other plans or projects can be excluded from the impact-effect pathways assessed.
- C.8.5 However, the ExA's findings are that AEoI cannot be ruled out on the following sites and relevant qualifying features:
- Inner Dowsing Race Bank North Ridge SAC – Annex I Sandbanks and reef features - project alone – physical habitat loss/disturbance, suspended sediment/deposition and changes to physical processes
 - Inner Dowsing Race Bank North Ridge SAC – Annex I Sandbanks and reef features in-combination – suspended sediment/deposition and changes to physical processes
 - Flamborough and Filey Coast SPA – kittiwake and kittiwake component of the seabird assemblage – in-combination collision risk
 - Flamborough and Filey Coast SPA – razorbill, guillemot and their component of the seabird assemblage - in-combination disturbance and displacement
 - The Farne Islands SPA – guillemot and guillemot component of the seabird assemblage – in-combination disturbance and displacement
- C.8.6 The applicant has submitted an assessment of alternative solutions, a case for IROPI, and proposed compensation measures. The ExA is satisfied that no feasible alternative solution exists that would represent a lesser adverse effect to the proposed development. Given the evidence available, with regards to the case for IROPI the ExA is of the opinion that IROPI for the proposed development could be established.
- C.8.7 The findings of the examination are that the compensation package as proposed is feasible and appropriate and is adequately secured in the recommended DCO.
- C.8.8 The ExA considers that there are several matters where the SoS may wish to consult on to obtain further information to enable them to undertake an appropriate assessment and to apply the derogation tests of The Habitats Regulations of alternative solutions, IROPI, and compensation in order to fulfil their duty under the requirements of The Habitats Regulations. These matters are:
- North Norfolk Coast SPA and Ramsar site, Greater Wash SPA and The Wash SPA and Ramsar site - the updated wording contained in the applicant's final

OLEMS submitted at D6 [RE6-070] and Schedule of Mitigation [REP6-074] (paragraphs C.4.50, C.4.69, and C.4.85)

- IDRBNR SAC - amendments to the SPCMP [REP6-076] and outline CSIP [REP6-062] and final views from NE [REP6-147] (paragraphs C.4.206, C.4.264 and C.4.297)
- IDRBNR SAC – NE’s final views on the use of a fallpipe [REP6-155] (paragraph C.4.252)
- The Wash and North Norfolk Coast SAC – securing parameters of the cable protection and use of a rock berm (paragraph C.4.306)
- The Wash and North Norfolk Coast SAC, Humber Estuary SAC, Southern North Sea SAC, Berwickshire and North Northumberland Coast SAC – view on the applicant’s final iPCoD Modelling Report [REP6-026] (paragraphs C.4.335, C.4.339, C.4.348 and C.4.352)
- IDRBNR SAC - the applicant’s final Without Prejudice Biogenic Reef Compensation Plan [REP6-038] and Without Prejudice Benthic Compensation Evidence Base and Road Map [REP6-040] (paragraph C.7.65)

APPENDIX D: OTHER LEGISLATION

APPENDIX D: OTHER LEGISLATION

- Acquisition of Land Act 1981
- Ancient Monuments and Archaeological Areas Act 1979
- Air Quality (England) Regulations 2000
- Air Quality Standards Regulations 2010 (as amended)
- The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019
- Ancient Monuments and Archaeological Areas Act 1979
- Building Act 1984 and the Building Regulations 2010
- Burial Act 1857
- Carbon Budget Order 2021
- Clean Power 2030 Action Plan
- Climate Change Act 2008
- Commons Registration Act 1965
- Compulsory Purchase Act 1965
- Compulsory Purchase (Vesting Declarations) Act 1981
- Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations 2017')
- Contaminated Land (England) (Amendment) Regulations 2012 ('Contaminated Land Regulations')
- Control of Electromagnetic Fields at Work Regulations 2016
- Control of Pollution Act 1974
- Controlled Waste (England and Wales) Regulations 2012 (SI 2012/811)
- Countryside and Rights of Way Act 2000
- Electricity Act 1989
- Environment Act 1995
- Environment Act 2021
- Environment (Amendment etc.) (EU Exit) Regulations 2019
- Environmental Damage (Prevention and Remediation) (England) Regulations 2015
- Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020
- Environmental Permitting (England and Wales) Regulations 2016
- Environmental Protection Act 1990
- Environmental Noise (England) Regulations 2006 (as amended)
- Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019
- European Landscape Convention (ELC) (Council of Europe, 2016) Hedgerow Regulations 1997
- Equality Act 2010
- Flood and Water Management Act 2010
- Flood Risk Regulations 2009
- Groundwater (Water Framework Directive) (England) Direction 2016
- Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894)
- Health and Safety at Work etc. Act 1974
- Health and Social Care Act 2012
- The Hedgerows Regulations 1997
- Highways Act 1980
- Human Rights Act 1998
- Infrastructure Planning (Decisions) Regulations 2010
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
- Land Drainage Act 1991
- Land Drainage Act 1994

- Levelling-up and Regeneration Act 2023
- Localism Act 2011
- Marine and Coastal Access Act 2009
- National Parks and Access to the Countryside Act 1949
- National Parks and Access to the Countryside Act 2000
- Natural Environment and Rural Communities Act 2006
- Neighbourhood Planning Act 2017
- New Roads and Street Works Act 1991
- Noise Insulation Regulations 1975
- The Planning Act 2008
- Planning (Hazardous Substances) Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Pollution Prevention and Control Act 1999
- Protection of Badgers Act 1992
- The Air Navigation Order 2016 (SI 2016/765)
- The Air Quality Standards Regulations 2010
- The Construction (Design and Management) Regulations 2015
- The Conservation of Habitats and Species Regulations 2017
- The Control of Substances Hazardous to Human Health (COSHH) Regulations 2002
- The Convention on Biological Diversity 1992
- The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) 1979
- The Convention on the International Regulations for Preventing Collisions at Sea (COLREGS) 1972
- The Energy Act 1983
- The Eels (England and Wales) Regulations 2009
- The Electricity (Safety, Quality and Continuity) Regulations 2002
- The Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020
- The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019
- The Espoo and Aarhus Conventions
- The Hedgerows Regulations 1997
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
- The International Convention for the Safety of Life at Sea (SOLAS) 1974
- The Management of Health and Safety at Work Regulations 1999
- The OSPAR convention 1992
- The Traffic Management Permit Scheme (England) Regulations
- The Waste (England and Wales) Regulations 2011 (SI 2011/988)
- The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
- Traffic Management Act 2004
- Treasure Act 1996
- Town and Country Planning Act 1990
- United Nations Convention on the Law of the Sea (UNCLOS) 1982
- United Nations Environmental Programme (UNEP) Convention on Biological Diversity 1992
- Waste (England and Wales) Regulations 2011
- Water Act 2003 and 2014
- Water Resources Act 1991
- Water Industry Act 1991
- Wild Mammals (Protection) Act 1996
- Wildlife and Countryside Act 1981

Other relevant Directives and assimilated EU laws

- Habitats Directive (92/43/EEC)
- Hazardous Waste Directive (2008/98/EC)
- Landfill Directive (1999/31/EC)
- The Birds Directive (2009/147/EC)
- Water Framework Directive (2000/60/EC)
- Waste Framework Directive (2008/98/EC)

Other made DCOs identified by the applicant [[REP2-051](#)]

- the Triton Knoll Electrical System Order 2016
- the National Grid (Richborough Connection Project) Development Consent Order 2017
- the Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020
- the Hornsea Three Offshore Wind Farm Order 2020
- the Norfolk Boreas Offshore Wind Farm Order 2021
- the Manston Airport Development Consent Order 2022
- the East Anglia ONE North Offshore Wind Farm Order 2022
- the East Anglia TWO Order Offshore Wind Farm Order 2022
- the Norfolk Vanguard Offshore Wind Farm Order 2022
- the Hornsea Four Offshore Wind Farm Order 2023
- the Boston Alternative Energy Facility Order 2023

APPENDIX E: THE RECOMMENDED DCO

202* No. ****

INFRASTRUCTURE PLANNING

The Outer Dowsing Offshore Wind Farm Order 202*

Made - - - -

Coming into force

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SCHEDULE 13	— Deemed licence under the 2009 Act – northern artificial nesting structure 2
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SCHEDULE 14	— Deemed licence under the 2009 Act – southern artificial nesting structure 1
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PART 2	— Conditions
SCHEDULE 15	— Deemed licence under the 2009 Act – southern artificial nesting structure 2
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- PART 7 — Protection for National Grid Electricity Transmission Plc
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 - PART 5 — Inner Dowsing, Race Bank, and North Ridge Special Area of Conservation: Biogenic Reef Compensation Measures

An application under section 37 of the Planning Act 2008 (“the 2008 Act”)(a) has been made to the Secretary of State for an order granting development consent.

The application was examined by the Examining Authority, which has made a report to the Secretary of State under section 74(2)(b) of the 2008 Act.

The Examining Authority, having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74 of the 2008 Act made a report and recommendation to the Secretary of State.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(c) and has had regard to the documents and matters referred to in section 104(2)(d) of the 2008 Act.

(a) 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of, and schedule 13 to, the Localism Act 2011 (c.20) and by sections 22 to 27 of the Growth and Infrastructure Act 2013 (c. 27).

(b) Section 74 was amended by sections 128(2) and 237 and paragraph 29 of Schedule 13 and paragraph 1 of Schedule 25 to the Localism Act 2011.

(c) S.I. 2017/572.

(d) Section 104(2) was amended by paragraph 49(3) of Schedule 13 to the Localism Act 2011 (c.20) and section 58(5) of the Marine and Coastal Access Act 2009 (c.23).

The Secretary of State is satisfied that special category land comprised within the Order land, when burdened with the new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before to the persons in whom it is vested; other persons, if any, entitled to rights of common or other rights; and the public; and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, having decided the application, has determined to make an order giving effect to the proposals comprised in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State, in exercise of the powers conferred by sections 114(a) and 120(b) of the 2008 Act, makes the following Order:

PART 1

Preliminary

Citation and commencement

- 1.—(1) This Order may be cited as the Outer Dowsing Offshore Wind Farm Order 202*.
(2) This Order comes into force on [] 202*.

Interpretation

- 2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(c);
“the 1965 Act” means the Compulsory Purchase Act 1965(d);
“the 1980 Act” means the Highways Act 1980(e);
“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(f);
“the 1984 Act” means the Road Traffic Regulation Act 1984(g);
“the 1989 Act” means the Electricity Act 1989(h);
“the 1990 Act” means the Town and Country Planning Act 1990(i);
“the 1991 Act” means the New Roads and Street Works Act 1991(j);
“the 2003 Act” means the Communications Act 2003(k);
“the 2004 Act” means the Energy Act 2004(l);
“the 2008 Act” means the Planning Act 2008;
“the 2009 Act” means the Marine and Coastal Access Act 2009(m);

(a) Section 114 was amended by paragraph 55 of Schedule 13 to the Localism Act 2011 (c.20).

(b) Section 120 was amended by section 140 and paragraph 60 of Schedule 13 to the Localism Act 2011 (c.20).

(c) 1961 c.33.

(d) 1965 c.56.

(e) 1980 c.66.

(f) 1981 c.66.

(g) 1984 c. 27.

(h) 1989 c.29.

(i) 1990 c.8.

(j) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 78(4), 80(4) and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).

(k) 2003 c.21.

(l) 2004 c.20. Section 105 was amended by section 69 of the Energy Act 2008 (c.32) .

(m) 2009 c.23.

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016^(a);

“the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017^(b);

“access to works plan” means the plan or plans certified as the access to works plan or plans by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“ancillary works” means—

(a) the ancillary works described in Part 2 of Schedule 1 (ancillary works); and

(b) any other works authorised by this Order,

to the extent that such works are not development within the meaning of section 32 of the 2008 Act;

“array cable” means the cables described in paragraph (b) of Work No. 1 that link the wind turbine generators to each other and to the offshore transformer substations;

“authorised development” means the development described in Part 1 of Schedule 1 (authorised development) and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

“authorised project” means the authorised development and the ancillary works;

“book of reference” means the book of reference certified by the Secretary of State under article 41 (certification of plans etc.) as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

“cable circuits” means a number of electrical conductors necessary to transmit electricity between two points within the authorised development bundled as one cable or taking the form of separate cables, and may include one or more auxiliary cables (normally fibre optic cables) for the purpose of control, monitoring, protection or general communications;

“cable crossings” means the crossing of existing sub-sea cables or pipelines or other existing infrastructure by cable circuits authorised by this Order together with physical protection measures including cable protection;

“cable protection” means measures to protect cables from physical damage including the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

“carriageway” has the same meaning as in the 1980 Act^(c);

“commence” means—

(a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for operations consisting of offshore preparation works; and

(b) in respect of any other works comprised in the authorised project, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than onshore preparation works;

and the words “commencement” and “commenced” must be construed accordingly;

“deemed marine licences” means the marine licences set out in Schedules 10 (deemed licence under the 2009 Act – generation assets), 11 (deemed licence under the 2009 Act – offshore transmission assets), 12 (deemed licence under the 2009 Act – northern artificial nesting structure 1), 13 (deemed licence under the 2009 Act – northern artificial nesting structure 2), 14 (deemed licence under the 2009 Act – southern artificial nesting structure 1), 15 (deemed

(a) S.I. 2016/1154.

(b) S.I. 2017/1012.

(c) “carriageway” is defined in section 329(1).

licence under the 2009 Act – southern artificial nesting structure 2) and 16 (deemed licence under the 2009 Act – biogenic reef creation);

“earth pit” means the underground plastic and/or concrete pit where the earthing points between adjacent export cable sections are connected and earthed installed within a buried chamber for intermittent maintenance and fault-finding purposes;

“EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017^(a);

“export cables” means the offshore and onshore cable circuits comprised within Work Nos. 5, 11 and 13 connecting the offshore transformer stations to the onshore HVAC substation;

“cable ducts” means conduits for the installation of cable circuits;

“design approach document” means the document certified as the design approach document by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“design principles statement” means the document certified as the design principles statement by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“Environment Agency” means the non-departmental public body of that name created by section 1 of the Environment Act 1995^(b);

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 41 (certification of plans etc.);

“fibre optic cable” means a cable consisting of one or more thin flexible fibres with a glass core through which signals are sent in the form of light;

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“highway” and “highway authority” have the same meaning as in the 1980 Act^(c);

“Historic England” means the Historic Buildings and Monuments Commission for England;

“horizontal directional drilling” is a trenchless technique for installing cables and cable ducts involving drilling in an arc between two points;

“HVAC” means high voltage alternating current;

“important hedgerows and tree preservation order plan” means the document certified as the important hedgerows and tree preservation order plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“in principle Southern North Sea SAC Site Integrity Plan” means the document certified as the in principle Southern North Sea SAC Site Integrity Plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“interlink cable” means the cables comprised within Work No. 4 that link the offshore transformer substations to each other and to the offshore accommodation platform;

“intertidal area” means the area between MHWS and MLWS;

“intrusive” means an activity that requires or is facilitated by breaking the surface of the ground or seabed (but does not include the installation of fence or signage posts);

^(a) S.I. 2017/572

^(b) 1995 c.25.

^(c) “highway” is defined in section 328(1), for “highway authority”, see section 1.

“jointing bay” means an excavation formed with a buried concrete slab at sufficient depth to enable the jointing of high voltage power cables;

“jointing” means a process by which two or more cables are connected to each other by means of cable joints within a jointing bay;

“landfall” means the location at which the offshore export cables and fibre optic cables come ashore;

“landfall temporary works area” means a temporary works area associated with the works at the landfall including the construction of transition joint bays and trenchless technique works;

“land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.)

“large offshore transformer substation” means the large version of the offshore transformer substations assessed in the environmental statement;

“LAT” means lowest astronomical tide;

“layout principles” means the layout principles set out in paragraph 25 of Chapter 3 (Project Description) of the environmental statement;

“lead local flood authority” has the meaning in section 6(7) of the Flood and Water Management Act 2010(a);

“limits of deviation” means the limits for the scheduled works as shown on the works plans;

“link box” means the underground metal box placed within a plastic and/or concrete pit where the metal sheaths between adjacent export cable sections are connected and earthed. Link boxes are installed within a ground level manhole or inspection chamber to allow access for regular maintenance and fault-finding purposes. They may include above ground demarcation which may include fencing and marker posts;

“local highway authority” has the same meaning as in section 329(1) of the 1980 Act(b);

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the offshore works, to the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” means the average height of all low waters above Chart Datum;

“MMO” means the Marine Management Organisation;

“monopile foundation” means a steel pile, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“MSL” means mean sea level;

“offshore accommodation platform” means a structure attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing housing accommodation, storage, workshop, auxiliary equipment and facilities for operating, maintaining and controlling the wind turbine generators and offshore electrical installations;

“offshore artificial nesting structure” means a structure attached to the seabed by means of a foundation, providing nesting facilities for birds;

(a) 2010 c.29.

(b) Section 329(1) was amended by para. 60(2)(a) of Schedule 1(1) to the Infrastructure Act 2015 c.7.

“offshore electrical installations” means the small offshore transformer substations, the large offshore transformer substations, and the offshore reactive compensation platforms forming part of the authorised project;

“offshore preparation works” means surveys and monitoring seaward of MHWS undertaken prior to the commencement of construction to prepare for construction;

“offshore reactive compensation platform” means a structure attached to the seabed by means of a foundation, with one or more decks (including bird deterrents) housing—

- (a) electrical reactors and switchgear for the purpose of the efficient transfer of power in the course of HVAC transmission by providing reactive compensation;
- (b) auxiliary equipment and facilities for operating, maintaining and controlling the offshore reactive compensation platform;

“offshore order limits and grid coordinates plan” means the document certified as the offshore order limits and grid coordinates plan by the Secretary of State under article 41 (certification of plans etc.);

“offshore transformer substation” means a structure attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, radar and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“offshore works” means Work Nos. 1 to 11 and any related associated development in connection with those works and ancillary works described in Schedule 1 part 1 and Schedule 1 part 2 respectively;

“onshore preparation works” means operations consisting of site clearance, pre-planting of landscaping works, vegetation clearance, archaeological investigations, environmental surveys, ecological mitigation, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, creation of site accesses, footpath creation and the temporary display of site notices or advertisements;

“onshore HVAC substation” means a compound containing electrical equipment (including power transformers, gantries, switchgear, reactive compensation equipment, electrical protection equipment devices (disconnectors, circuit breakers), harmonic filters, cables and back-up generators), control buildings, lightning protection masts, communications masts, access, fencing and other associated equipment, structures or buildings;

“onshore transmission works” means Work Nos. 11 to 25 and any related associated development in connection with those works and ancillary works described in Schedule 1 part 1 and Schedule 1 part 2 respectively;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the works plans within which the authorised project may be carried out;

“outline air quality management plan” means the document certified as the outline air quality management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline biogenic reef mitigation plan” means the document certified as the outline biogenic reef mitigation plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline construction traffic management plan” means the document certified as the outline construction traffic management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline fisheries liaison and coexistence plan” means the document certified as the outline fisheries liaison and coexistence plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline landscape and ecological management strategy” means the document certified as the outline landscape and ecological management strategy by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline marine mammal mitigation protocol (piling)” means the document certified as the outline marine mammal mitigation protocol (piling) by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline noise and vibration management plan” means the document certified as the outline noise and vibration management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline operational artificial light emissions management plan” means the document certified as the outline operational artificial light emissions management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline operational drainage management plan” means the document certified as the outline operational drainage management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline organic land protocol” means the document certified as the outline organic land protocol by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline pollution prevention and emergency incident response plan” means the document certified as the outline pollution prevention and emergency incident response plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline public access management plan” means the document certified as the outline public access management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline scour protection and cable protection management plan” means the document certified as the outline scour protection and cable protection management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline site waste management plan” means the document certified as the outline site waste management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline soil management plan” means the document certified as the outline soil management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline surface water drainage strategy” means the document certified as the outline surface water drainage strategy by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline travel plan” means the document certified as the outline travel plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline vessel management plan” means the document certified as the outline vessel management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline marine archaeological written scheme of investigation” means the document certified as the outline marine archaeological written scheme of investigation by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“outline onshore written scheme of investigation for archaeological works” means the document certified as the outline onshore written scheme of investigation for archaeological works by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981^(a);

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“pin pile jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“public rights of way plan” means the plan certified as the public rights of way plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“relevant highway authority” means the highway authority for the area in which the land to which the relevant provision of this Order applies is situated;

“relevant lead local flood authority” means the lead local flood authority for the area in which the land to which the relevant provision of this Order applies is situated;

“relevant local highway authority” means the local highway authority for the area in which the land to which the relevant provision of this Order applies is situated;

“relevant planning authority” means the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

“requirements” means those matters set out in Part 3 of Schedule 1 (requirements) to this Order;

“SAC” means special area of conservation;

“scour protection” means measures to prevent loss of seabed sediment around a structure placed in or on the seabed by use of protective aprons, mattresses, or rock and gravel placement;

“scheduled works” means the numbered works specified in Part 1 of Schedule 1 (authorised development) to this Order, or any part of them;

“small offshore transformer substation” means the small version of the offshore transformer substations assessed in the environment statement;

“special category land” means the land comprising plot(s) 01-001, 01-002, 01-004, 01-005 and 17-001 shown on the land plans and described in the book of reference;

“stage” means a section or part of the authorised project as identified as a stage in a written scheme approved under requirement 8 (stages of authorised project onshore);

“statutory nature conservation body” means the appropriate nature conservation body as defined in regulation 5 of the 2017 Regulations;

(a) 1981 c.67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). There are other amendments to the 1981 Act which are not relevant to this Order.

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

“street” means a street within the meaning of section 48 of the 1991 Act(a), together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act(b);

“streets plan” means the plan or plans certified as the streets plan or plans by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“suction bucket” means large diameter steel cylindrical shells which penetrate the seabed assisted by a hydrostatic pressure differential for securing steel jacket foundations;

“suction bucket jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“temporary works area” means a construction site associated with the onshore transmission works including hard standings, plant and equipment, lay down and storage areas for construction materials, plant and equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas for welfare facilities including offices and canteen and washroom facilities, wheel washing facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“transition joint bay” means an underground pit where the offshore export cables are jointed to the onshore export cables;

“transition piece” means the metal structure attached to the top of the foundation where the base of the wind turbine generator is connected and may include additional equipment such as J-tubes, corrosion protection systems, boat access systems, access platforms, craneage, radar, electrical transmission equipment and associated equipment;

“traffic authority” has the same meaning as in section 121A of the 1984 Act;

“traffic sign” has the same meaning as in section 64(1) of the 1984 Act;

“traffic regulation order plan” means the plan certified as the traffic regulation order plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.);

“trenchless technique” means a method of installation that allows ducts and cables to be installed under an obstruction without digging a trench (examples of such techniques include horizontal directional drilling, thrust boring, auger boring and pipe ramming);

“trenchless technique compound” means a construction site associated with the onshore transmission works where a trenchless technique is proposed including hard standings, lay down and storage areas for construction materials, plant and equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas for welfare facilities including offices and canteen and washroom facilities, wheel washing facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“tribunal” means the Lands Chamber of the Upper Tribunal;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means GT R4 Limited (company number 13281221);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or

(a) Section 48 was amended by section 124(2) of the Local Transport Act 2008 (c.26).

(b) “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c.7).

adapted for movement through, in, on or over water and which is at the time in, on or over water;

“watercourse” includes all rivers, streams, creeks, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation; and

“works plans” means the plans certified as the works plans onshore and works plans offshore by the Secretary of State for the purposes of this Order under article 41 (certification of plans etc.).

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions, capacities, volumes and lengths referred to in this Order are approximate save in respect of the parameters referred to in—

- (a) requirements 2, 3, 4 and 5 in Part 3 of Schedule 1 (requirements);
- (b) conditions 1, 2 and 3 in Part 2 of Schedules 10 and 11 (conditions);
- (c) condition 1 in Part 2 of Schedules 12, 13, 14, 15 and 16 (conditions),

and distances between points on a work comprised in the authorised development are to be taken to be measured along that work.

(4) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(5) Unless otherwise stated, references in this Order to points identified by letters are to be construed as references to the points so lettered on the works plans.

(6) The expression “includes” is to be construed without limitation unless the contrary intention appears.

(7) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

PART 2

Principal Powers

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) consent for the ancillary works,

to be carried out within the Order limits or at the locations shown on the access to works plan.

(2) Each of the scheduled works must be constructed and maintained within the limits of deviation for that work.

Power to maintain the authorised project

4.—(1) The undertaker may at any time maintain the authorised project, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain any further licence under Part 4 of the 2009 Act (marine licensing) for offshore works not covered by the deemed marine licences.

Operation of generating station

5.—(1) The undertaker is hereby authorised to operate the generating station comprised in the authorised project.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

Benefit of the Order

6.—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraph (3), the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (including the deemed marine licences) and such related statutory rights as may be agreed between the undertaker and the transferee;
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (including the deemed marine licences) and such related statutory rights as may be so agreed,

except where paragraph (6) applies, in which case the consent of the Secretary of State is not required.

(3) The Secretary of State must consult the MMO before giving consent to the transfer or grant to another person of the benefit of any or all of the provisions of any of the deemed marine licences.

(4) Where an agreement has been made in accordance with paragraph (2) references in this Order to the undertaker, except in paragraph (5), (7), (8), (11) and (12) of this Article, include references to the transferee or lessee.

(5) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (2)—

- (a) the benefit transferred or granted (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit is not enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) are subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(6) This paragraph applies where—

- (a) the transferee or lessee is a person who holds a licence under the 1989 Act; or
- (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
 - (i) no such claims have been made,

- (ii) any such claim has been made and has been compromised or withdrawn,
- (iii) compensation has been paid in final settlement of any such claim,
- (iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or
- (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable.

(7) The provisions of article 9 (street works), article 12 (temporary stopping up of streets), article 20 (compulsory acquisition of land), article 22 (compulsory acquisition of rights), article 28 (temporary use of land for carrying out the authorised project) and article 29 (temporary use of land for maintaining the authorised project) have effect only for the benefit of the named undertaker, and a person who is a transferee or lessee and is also—

- (a) in respect of Work Nos. 11 to 25 a person who holds a licence under the 1989 Act; or
- (b) in respect of functions under article 9 (street works) relating to a street, a street authority.

(8) Prior to any transfer or grant under this article taking effect the undertaker must provide written notification to the Secretary of State and, if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority.

(9) A notice required under paragraph (8) must—

- (a) state—
 - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
 - (ii) subject to paragraph (10), the date on which the transfer will take effect;
 - (iii) the provisions to be transferred or granted;
 - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (5), will apply to the person exercising the powers transferred or granted; and
 - (v) where paragraph (6) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.
- (b) be accompanied by—
 - (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
 - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(10) The date specified under paragraph (9)(a)(ii) must not be earlier than the expiry of 14 days from the date of the receipt of the notice.

(11) The notice given under paragraph (9) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

(12) Section 72(7) and (8) of the 2009 Act do not apply to a transfer or grant of the whole or part of the benefit of the provisions of any of the deemed marine licences to another person by the undertaker pursuant to an agreement under this article 6 (benefit of the Order) save that the MMO may amend any deemed marine licence granted under Schedules 10 to 16 of the Order to correct the name of the undertaker to the name of a transferee or lessee under this article 6 (benefit of the Order).

(13) A notice given under paragraph (8) is deemed to have been given in writing where it is sent electronically.

Application and modification of legislative provisions

7.—(1) Regulation 6 of the Hedgerows Regulations 1997^(a) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j)—

“(k) for carrying out development that has been authorised by an order granting development consent pursuant to the Planning Act 2008.”

(2) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

- (a) the provisions of the Neighbourhood Planning Act 2017^(b) insofar as they relate to temporary possession of land under articles 28 (temporary use of land for carrying out the authorised project) and 29 (temporary use of land for maintaining the authorised project) of this Order;
- (b) regulation 12(1)(a) (requirement for environmental permit) of the 2016 Regulations in relation to the carrying out of a flood risk activity;
- (c) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991^(c) that require consent or approval for the carrying out of works;
- (d) section 23 of the Land Drainage Act 1991^(d) (prohibition of obstructions etc. in watercourses); and
- (e) the provisions of any byelaws made under section 66 of the Land Drainage Act 1991 (powers to make byelaws) that require consent or approval for the carrying out of works.

(3) The provisions of the Lindsey County Council (Sandhills) Act 1932^(e) do not apply in relation to the exercise of any power conferred by this Order.

(4) Regulation 5 of The Management of Hedgerows (England) Regulations 2024^(f) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph 5(e)—

“(5)(f) activities authorised by an order granting development consent pursuant to the Planning Act 2008.”

(5) In this article, “flood risk activity” means an activity described in paragraph 3(1) of Schedule 25 (flood risk activities and excluded flood risk activities) to the 2016 Regulations.

(6) Nothing in this article 7 (application and modification of legislative provisions) overrides the requirement for an environmental permit under Regulation 12(1)(b) (requirement for environmental permit) of the 2016 Regulations.

Defence to proceedings in respect of statutory nuisance

8.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990^(g) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is

^(a) S.I. 1997/1160. Regulation 6 was amended by paragraph 35 of Schedule 1 to S.I. 2015/377.

^(b) 2017 c.20.

^(c) 1991 c.57.

^(d) 1991 c.59.

^(e) 1932 c.86.

^(f) SI 2024/680

^(g) 1990 c.43. Section 82 was amended by section 107 and paragraph 6 of Schedule 17 to the Environment Act 1995 (c. 25), section 5 of the Noise and Statutory Nuisance Act 1993 (c. 40), and section 103 of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and section 79 was amended by sections 101 and 102 of the Clean Neighbourhoods and Environment Act 2005 (c. 16), and by section 120 and paragraph 89 of Schedule 22 to the Environment Act 2005. There are other amendments to this Act which are not relevant to the Order.

attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site) or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974^(a); or

(ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in compliance with requirement 25 (control of noise during operational phase); or

(ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for purposes of or in connection with the construction, maintenance or decommissioning of the authorised project.

PART 3

Streets

Street works

9.—(1) The undertaker may, for the purposes of the authorised project, enter on so much of any of the streets specified in Schedule 2 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus under the street;
- (e) maintain apparatus under the street or change its position; and
- (f) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c), (d) and (e).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) In this article “apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act^(b).

Application of the 1991 Act

10.—(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to the temporary stopping up, temporary alteration or temporary diversion of a street by the undertaker under article 12 (temporary stopping up of streets) whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(a) 1974 c.40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 (c. 43) and Schedule 24 to the Environment Act 1995 (c. 25). There are other amendments to the 1974 Act which are not relevant to the Order.

(b) “apparatus” is defined in section 89(3) and section 105(1).

(2) The provisions of the 1991 Act^(a) are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);
- (b) section 57 (notice of emergency works);
- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs (a) to (g).

(3) Section 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Temporary stopping up of public rights of way

11.—(1) The undertaker may, in connection with the carrying out of the authorised project, temporarily stop up each of the public rights of way specified in column (2) of Schedule 3 (public rights of way to be temporarily stopped up) to the extent specified in column (3) of Schedule 3, by reference to the public rights of way plan.

(2) Without limiting paragraph (1), the undertaker may use any public right of way temporarily stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a public right of way affected by the temporary stopping up of a public right of way under this article if there would otherwise be no such access.

(4) The public rights of way specified in Schedule 3 (public rights of way to be temporarily stopped up) must not be temporarily stopped up under this article unless the alternative public right of way described in column (4) of Schedule 3 or as otherwise approved by the relevant local highway authority is first provided by the undertaker to the standard defined in the public access management plan to the reasonable satisfaction of the relevant local highway authority.

(5) The relevant diversion route provided under paragraph (4) must be subsequently maintained by the undertaker until the re-opening of the relevant public right of way specified in paragraph (1).

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Temporary stopping up of streets

12.—(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street, other than a public right of way specified in Schedule 3 (public rights of way to be temporarily stopped up), and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limiting paragraph (1), the undertaker may use any street temporarily stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(a) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c. 18).

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets specified in column (2) of Schedule 4 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the streets plan, in column (3) of that Schedule.

(5) The undertaker must not temporarily stop up, alter, divert or use as a temporary working site—

- (a) any street referred to in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority, which may attach reasonable conditions to the consent.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If a street authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraph (5)(b) or refuses consent without giving reasons for that refusal, that street authority is deemed to have granted consent.

Access to works

13.—(1) The undertaker may, for the purposes of the authorised project—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 5 (access to works); and
- (b) with the approval of the relevant highway authority after consultation with the relevant planning authority in accordance with Requirement 20 (highway accesses), form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised project.

(2) If the relevant highway authority fails to notify the undertaker of its decision within 56 days of receiving an application for approval under paragraph (1)(b) that relevant highway authority is deemed to have granted approval.

Agreements with street authorities

14.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) any temporary stopping up, alteration or diversion of a street authorised by this Order;
- (b) the construction of any new street authorised by this Order; or
- (c) the carrying out in the street of any of the works referred to in article 9(1) (street works).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Power to alter layout etc. of streets

15.—(1) Subject to paragraphs (2) and (3), the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with constructing, operating and maintaining the authorised project, alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of the street including any carriageway, kerb, footway, cycle track or verge;
- (b) make and maintain passing place(s); and
- (c) alter, remove, replace and relocate any street furniture, including bollards, lighting columns, road signs.

(2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(3) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority, such consent not to be unreasonably withheld.

(4) Paragraphs (2) and (3) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

(5) If the street authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraph (3), the street authority is deemed to have given approval.

Traffic Regulation

16.—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may at any time, for the purposes of the construction of the authorised project—

- (a) prohibit vehicular access, waiting of vehicles and parking and regulate vehicular speed by imposing speed restrictions on vehicles in the manner specified in Part 1 of Schedule 6 (traffic regulation) on those roads specified in column (1) and along the lengths and between the points specified in column (2) in the manner specified in column (3) of that Part of that Schedule; and
- (b) regulate vehicular speed by imposing speed restrictions on vehicles in the manner specified in Part 2 of Schedule 6 (traffic regulation) on those roads specified in column (1) and along the lengths and between the points specified in column (2) in the manner specified in column (3) of that Part of that Schedule.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may at any time, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised project—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) make provision as to the maximum speed, direction or priority of vehicular traffic on any road; and
- (d) place or maintain traffic signs,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The undertaker must not exercise the powers in paragraphs (1) and (2) unless it has—

- (a) given not less than 28 days' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2)—

(a) has effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 6 (traffic regulation) to which the prohibition, restriction or other provision is subject); and

(b) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004^(a) (road traffic contraventions subject to civil enforcement).

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraphs (1) and (2) at any time prior to the part of the authorised project to which it relates being brought into operational use.

(6) Before complying with the provisions of paragraph (3) the undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated.

(7) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(8) If the traffic authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraphs (1) and (2) the traffic authority is deemed to have granted consent.

PART 4

Supplemental powers

Discharge of water

17.—(1) Subject to paragraphs (3) and (4) below, the undertaker may use any watercourse or any public sewer, drain or other suitable land for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 of the Water Industry Act 1991^(b) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to article 17(1) except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article damage or interfere with the bed or banks of any watercourse forming part of a main river as defined under section 113(1) of the Water Resources Act 1991^(c).

(a) 2004 c.18.

(b) 1991 c.56. Section 106 was amended by section by sections 43(2) and 35(8)(a) of and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c.43) and sections 99(2), (4), (5)(a), (5)(b), (5)(c) and 36(2) and 99 of the Water Act 2003 (c.37) and section 32, Schedule 3, paragraph 16(1) of the Flood and Water Management Act 2010 c.29.

(c) 1991 c.57.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise any water discharge or groundwater activity for which an environmental permit is required by regulation 12 (requirement for an environmental permit) of the 2016 Regulations.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which either belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority or one which such body has permissive rights over; and
- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

Authority to survey and investigate the land onshore

18.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or any land which may be affected by the authorised project and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes or bore holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and groundwater samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including the digging of trenches; and
- (d) place on, leave on and remove from the land apparatus and welfare facilities for use in connection with the survey and investigation of land, environmental monitoring and making of trial holes, bore holes or trenches.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required on entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes, bore holes or trenches.

(4) No trial holes, bore holes or trenches may be made under this article—

- (a) in land forming a railway without the consent of Network Rail(a);
- (b) in land held by or in right of the Crown without the consent of the Crown;
- (c) in land located within the highway boundary without the consent of the highway authority; or
- (d) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld or delayed.

(5) Following completion of any survey, monitoring or investigation works the undertaker must remove all equipment, apparatus and welfare facilities placed on the land in connection with such survey, monitoring or investigations.

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (4)(c) in the case of a highway authority; or
- (b) under paragraph (4)(d) in the case of a street authority;

that authority is deemed to have granted consent.

(8) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Removal of Human Remains

19.—(1) In this article, “the specified land” means the land within the Order limits landward of mean low water springs.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land, it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Subject to paragraph (12), before any such remains are removed from the specified land, the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised project; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3), the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3), any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question must be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or

- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice, but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10), the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

(12) No notice is required under paragraph (3) before the removal of any human remains where the undertaker is satisfied—

- (a) that the remains were interred more than 100 years ago; and
- (b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.

(13) In the case of remains in relation to which paragraph (12) applies, the undertaker—

- (a) may remove the remains;
- (b) must apply for direction from the Secretary of State under paragraph (15) as to their subsequent treatment; and
- (c) must deal with the remains in such manner, and subject to such conditions, as the Secretary of State directs.

(14) In this article—

- (a) references to a relative of the deceased are to a person who—
 - (i) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased; or
 - (ii) is, or is a child of, a brother, sister, uncle or aunt of the deceased; and
- (b) references to a personal representative of the deceased are to a person or persons who—
 - (i) is the lawful executor of the estate of the deceased; or
 - (ii) is the lawful administrator of the estate of the deceased.

(15) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(16) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(17) Section 25 of the Burial Act 1857^(a) (offence of removal of body from burial ground) does not apply to a removal carried out in accordance with this article.

PART 5

Powers of Acquisition

Compulsory acquisition of land

20.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project or to facilitate, or is incidental to, it.

(2) This article is subject to paragraph (2) of article 22 (compulsory acquisition of rights) and article 28 (temporary use of land for carrying out the authorised project).

Time limit for exercise of authority to acquire land compulsorily

21.—(1) After the end of the period of seven years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act^(b) as applied by article 24 (application of the 1981 Act).

(2) The authority conferred by article 28 (temporary use of land for carrying out the authorised project) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights

22.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights or impose restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 20 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this article, article 23 (private rights) and article 30 (statutory undertakers), in the case of the Order land specified in column (1) of Schedule 7 (land in which only new rights etc. may be acquired), the undertaker's powers of compulsory acquisition are limited to the acquisition of existing rights over land and the creation and acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 and Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act^(c), as substituted by paragraph 9 of Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictions), where the undertaker creates a right or acquires an existing right over land or imposes a restrictive covenant under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 8 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of restrictive covenants.

(a) 1857 c.81. Section 25 was amended by section 2 of the Church of England (Miscellaneous Provisions) Measure 2014 No.1.

(b) Section 4 was amended by sections 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c.22).

(c) Section 8 was amended by paragraph 2 of Schedule 17 to the Housing and Planning Act 2016 (c.22) and paragraph 62 of Schedule 1 to the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009/1307.

(5) In any case where the acquisition of existing rights or new rights or the imposition of restrictive covenants under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights and impose such restrictive covenants to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) Subject to the modifications set out in Schedule 8 the enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply in the case of a compulsory acquisition under this Order in respect of a right by the creation of a new right or imposition of a restriction as they apply to the compulsory purchase of land and interests in land.

(8) So much of the special category land as is required for the purposes of exercising the powers acquired by the undertaker pursuant to this article is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those rights.

Private rights

23.—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition under article 20 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 20—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act^(a) (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 22 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry) in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

^(a) Section 11(1) was amended by sections 186 to 188 of the Housing and Planning Act 2016 (c.22), paragraph 14 of Schedule 4 to the Acquisition of Land Act 1981 (c.67) and paragraph 12 of Schedule 5 to the Church of England (Miscellaneous Provision) Measure 2006 No 1.

(5) This article does not apply in relation to any right to which section 138 of the 2008 Act^(a) (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 30 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of the land,

(iii) the undertaker's entry onto the land, or

(iv) the undertaker's taking temporary possession of the land,

that any or all of those paragraphs do not apply to any right specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person, the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

24.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of act), for subsection 2, substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.

(4) Section 5 (earliest date for execution of declaration) is omitted.

(5) Section 5A (time limit for general vesting declaration) is omitted.

(6) In section 5B (extension of time limit during challenge)^(b)—

(a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)”; and

(b) for “the three year period mentioned in section 5A” substitute “the seven year period mentioned in article 21 (time limit for exercise of authority to acquire land compulsorily) of the Outer Dowsing Offshore Wind Farm Order 202[]”.

(7) In section 6 (notices after execution of declaration)^(c), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(8) In section 7 (constructive notice to treat), in subsection (1)(a), omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(a) Section 138 was amended by section 23 of the Growth and Infrastructure Act 2013 (c.27) and paragraph 12 of Schedule 1 to the Communications Act 2003 and Digital Economy Act 2019 (Consequential Amendments to Primary Legislation) Regulations 2017 (S.I 2017/1285).

(b) Section 5B was inserted by section 202 of the Housing and Planning Act 2016 (c.22) and amended by section 185 of the Levelling-up and Regeneration Act 2023 (c.55).

(c) Section 6 was amended by paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c.22) and section 4 and paragraph 52 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11).

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(a), for paragraph 1(2) substitute—

“(2) But see article 26(1) (acquisition of subsoil or airspace only) of the Outer Dowsing Offshore Wind Farm Order 202[], which excludes the acquisition of subsoil or airspace from this Schedule.”.

(10) References to the 1965 Act in the 1981 Act must be construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 25 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the compulsory acquisition of land under this Order.

Modification of Part 1 of the Compulsory Purchase Act 1965

25.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge)(b)—

- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)”; and
- (b) for “the three year period mentioned in section 4” substitute “the seven year period mentioned in article 21 (time limit for exercise of authority to acquire land compulsorily) of the Outer Dowsing Offshore Wind Farm Order 202[]”.

(3) In section 11A (powers of entry: further notice of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 21 (time limit for exercise of authority to acquire land compulsorily) of the Outer Dowsing Offshore Wind Farm Order 202[]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)(c)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 26(3) (acquisition of subsoil or airspace only) of the Outer Dowsing Offshore Wind Farm Order 202[], which excludes the acquisition of subsoil or airspace from this Schedule”; and

(b) at the end insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 28 (temporary use of land for carrying out the authorised project) or article 29 (temporary use of land for maintaining the authorised project) of the Outer Dowsing Offshore Wind Farm Order 202[].”

(a) Schedule A1 was inserted by section 216 and paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c.22).

(b) Section 4A was inserted by section 202 of the Housing and Planning Act 2016 (c.22) and was amended by section 185 of the Levelling-up and Regeneration Act 2023 (c.55).

(c) Schedule 2A was inserted by paragraph 3 of Schedule 17 to the Housing and Planning Act 2016 (c.22).

Acquisition of subsoil or airspace only

26.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of, or the airspace over, the land referred to in article 20 (compulsory acquisition of land) or article 22 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole, or an interest in the whole, of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over, land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act as modified by Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictions);
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) Section 153(4A) (reference of objection to Upper Tribunal: general) of the 1990 Act^(a).

(4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Rights under or over streets

27.—(1) The undertaker may enter on and appropriate so much of the subsoil of or airspace over any street within the Order limits as may be required for the purposes of the authorised project and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised project.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised project

28.—(1) The undertaker may, in connection with the carrying out of the authorised project—

- (a) enter on and take temporary possession of—
 - (i) the land specified in column (2) of Schedule 9 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
 - (ii) any other Order land as is required for the authorised project or to facilitate, or is incidental to it, and in respect of which no notice of entry has been served under

^(a) Section 153(4A) was inserted by section 200 of the Housing and Planning Act 2016 (c.22).

section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), haul roads, security fencing, bridges, structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised project;
- (e) construct any works, or use the land, as specified in relation to that land in column 3 of Schedule 9 (land of which temporary possession may be taken), or any mitigation works or operations;
- (f) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised development); and
- (g) carry out mitigation works required pursuant to the requirements in Schedule 1.

(2) Not less than 28 days before entering on and taking temporary possession of or using land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker must not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph 1(a)(i) after the end of the period of one year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of Schedule 9 (land of which temporary possession may be taken); or
- (b) in the case of land specified in paragraph 1(a)(ii) after the end of the period of one year beginning with the date of completion of the part of the authorised project for which temporary possession of the land was taken, unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace any building, structure, drain or electric line removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 2 (streets subject to street works); or
- (d) restore the land on which any works have been carried out under paragraph (1)(e) or (1)(g) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 1.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 (determination of disputed compensation) of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not precluded from—

- (a) acquiring new rights or imposing restrictive covenants over any part of that land under article 22 (compulsory acquisition of rights) to the extent that such land is listed in column (1) of Schedule 7 (land in which only new rights etc. may be acquired); or
- (b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 26 (acquisition of subsoil or airspace only).

(9) Where the undertaker takes possession of or uses land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act^(a) (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) So much of the special category land as is required for the purposes of exercising the powers pursuant to this article is temporarily discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those powers, and only for such time as any special category land is being used under this article.

Temporary use of land for maintaining authorised project

29.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised project; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised project for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

^(a) Section 13 was amended by Tribunals Courts and Enforcement Act 2007 (c.15).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) In this article “the maintenance period”, in relation to any part of the authorised project, means—

- (a) the period of five years beginning with the date on which the authorised project first exports electricity to the national electricity transmission network; and
- (b) any period falling between the date at which temporary possession is no longer permitted under article 28(3) and the date on which the authorised project first exports electricity to the national electricity transmission network.

(12) So much of the special category land as is required for the purposes of exercising the powers pursuant to this article is temporarily discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those powers, and only for such time as any special category land is being used under this article.

Statutory undertakers

30. Subject to the provisions of Schedule 18 (protective provisions) the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land and described in the book of reference; and
- (b) extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Recovery of costs of new connections

31.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 30 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 30, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the 2003 Act; and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

PART 6

Operations

Deemed marine licences under the 2009 Act

32. The marine licences set out in Schedule 10 (deemed licence under the 2009 Act – generation assets), Schedule 11 (deemed licence under the 2009 Act – offshore transmission assets), Schedule 12 (deemed licence under the 2009 Act – northern artificial nesting structure 1), Schedule 13 (deemed licence under the 2009 Act – northern artificial nesting structure 2), Schedule 14 (deemed licence under the 2009 Act – southern artificial nesting structure 1), Schedule 15 (deemed licence under the 2009 Act – southern artificial nesting structure 2) and Schedule 16 (deemed licence under the 2009 Act – biogenic reef creation) are deemed to have been granted to the undertaker under Part 4 (marine licensing) of the 2009 Act for the licensed marine activities set out in Part 1, and subject to the conditions set out in Part 2, of each licence.

PART 7

Miscellaneous and general

Application of landlord and tenant law

33.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants may prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Amendment of local legislation

34.—(1) The following local enactments and local byelaws, and any byelaws or other provisions made under any of those enactments or byelaws, are hereby excluded and do not apply insofar as inconsistent with a provision, of or a power conferred by paragraphs 1 to 5 and 7 of Part 6 of Schedule 18 of this Order—

- (a) Public Act, 2 George III, c. 32;
- (b) Public Act, 16 George III, c. 23;
- (c) Boston Port and Harbour Act 1812;
- (d) Act for improving the Port and Harbour of Boston 1827;

- (e) An Act for amending the several Acts relating to the Port and Harbour of Boston in the county of Lincoln 1842;
- (f) River Welland Dues Act 1842;
- (g) River Witham Outfall Improvement Act 1880;
- (h) Boston Dock Act 1881;
- (i) Boston Corporation Act 1935;
- (j) Boston Harbour Revision Order 1989; and
- (k) Boston Dock Byelaws 1947.

(2) The following local enactments and local byelaws, and any byelaws or other provisions made under any of those enactments or byelaws, are hereby excluded and do not apply insofar as inconsistent with a provision, of or a power conferred by this Order—

- (a) Black Sluice Drainage Act 1765;
- (b) Black Sluice Drainage Act 1770;
- (c) Black Sluice Drainage Act 1846;
- (d) Black Sluice Drainage Act 1849;
- (e) Black Sluice Drainage Act 1880;
- (f) Land Drainage (Black Sluice) Provisional Order Confirmation Act 1925; and
- (g) Black Sluice Internal Drainage Board Complete Land Drainage Byelaws 1988.

(3) For the purpose of paragraphs (1) and (2) a provision is inconsistent with a provision or the exercise of a power conferred by this Order if and insofar as (in particular)—

- (a) it would make it an offence to take action, or not to take action, in pursuance of a power conferred by this Order;
- (b) action taken in pursuance of a power conferred by this Order would cause the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken; or
- (c) action taken in pursuance of a power or duty under the provisions would or might interfere with the exercise of any work authorised by this Order.

(4) Where any person notifies the undertaker in writing that anything done or proposed to be done by the undertaker or by virtue of this Order would amount to a contravention of a statutory provision of local application, the undertaker must as soon as reasonably practicable, and at any rate within 14 days of receipt of the notice, respond in writing setting out—

- (a) whether the undertaker agrees that the action taken or proposed does or would contravene the provision of local application;
- (b) if the undertaker does agree, the grounds (if any) on which the undertaker believes that the provision is excluded by this article; and
- (c) the extent of that exclusion.

Operational land for purposes of the 1990 Act

35. Development consent granted by this Order is treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as not being operational land).

Felling or lopping of trees and removal of hedgerows

36.—(1) Subject to article 37 (trees subject to tree preservation orders), the undertaker may fell or lop any tree or shrub within or overhanging the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the onshore preparation works, or the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of the authorised project—

- (a) subject to paragraph (2) above, remove any hedgerows within the Order limits and specified in Schedule 17, Part 1 (removal of hedgerows) that may be required for the purposes of carrying out the authorised project; and
- (b) remove the important hedgerows as are within the Order limits and specified in Schedule 17, Part 2 (removal of important hedgerows).

(5) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997.

Trees subject to tree preservation orders

37.—(1) The undertaker may fell or lop or cut back the roots of any tree within or overhanging land within the Order limits that is subject to a tree preservation order made after 13 October 2023 or cut back its roots if it reasonably believes it to be necessary in order to do so to prevent the tree—

- (a) from obstructing or interfering with the onshore preparation works, or any apparatus used in connection with the onshore preparation works;
- (b) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or
- (c) from constituting an unacceptable source of danger (whether to children or to other persons).

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must not cause unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, will be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Protective provisions

38. Schedule 18 (protective provisions) has effect.

Arbitration

39.—(1) Subject to article 43 (saving provision for Trinity House), any dispute or difference arising out of or in connection with any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration in accordance with the rules at Schedule 19 (arbitration rules) to this Order by a single arbitrator to be agreed between the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(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 is not subject to arbitration.

Requirements, appeals, etc.

40.—(1) Where an application is made to, or a request is made of, Lincolnshire County Council or any other relevant person for any agreement or approval required or contemplated by any of the provisions of this Order, such agreement or approval must, if given, be given in writing and must not be unreasonably withheld or delayed

(2) Schedule 20 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals required or contemplated by the requirements within Part 3 of Schedule 1 (requirements) to this Order.

Certification of plans etc.

41.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the documents listed in Schedule 21 (documents to be certified) for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies that provision by a number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

Abatement of works abandoned or decayed

42. Where Work Nos. 1(a), 2, 3 or 7 or any part of those works is abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense to repair and restore or remove Work Nos. 1(a), 2, 3 or 7 or any relevant part of those works, without prejudice to any notice served under section 105(2) of the 2004 Act^(a). The notice may also require the restoration of the site of the relevant part(s) of Work Nos. 1(a), 2, 3 or 7 to a safe and proper condition within an area and to such an extent as may be specified in the notice.

Saving provisions for Trinity House

43. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

Crown rights

44.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;

^(a) Section 105(2) was substituted by section 69(3) of the Energy Act 2008 (c. 32).

- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act^(a)) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Funding

45.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place either—

- (a) a guarantee in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or
- (b) an alternative form of security for that purpose, that has been approved by the Secretary of State.

(2) The provisions are—

- (a) article 20 (compulsory acquisition of land);
- (b) article 22 (compulsory acquisition of rights);
- (c) article 23 (private rights);
- (d) article 26 (acquisition of subsoil or airspace only);
- (e) article 27 (rights under or over streets);
- (f) article 28 (temporary use of land for carrying out the authorised project);
- (g) article 29 (temporary use of land for maintaining the authorised project); and
- (h) article 30 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

Compensation provisions

46. Schedule 22 (compensation measures) has effect.

Service of notices

47.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(a) “Crown land” is defined in section 227 of the 2008 Act.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to services by post) of the Interpretation Act 1978^(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Transfer of functions of the relevant local planning authority

48.—(1) For the purposes of this Order only, the relevant local planning authority referred to in Part 8 of the 2008 Act shall be Lincolnshire County Council in respect of the following articles—

(a) 1978 c.30.

- (a) Article 9 (Street works);
- (b) Article 10 (Application of the 1991 Act);
- (c) Article 11 (Temporary stopping up of public rights of way);
- (d) Article 12 (Temporary stopping up of streets);
- (e) Article 13 (Access to works);
- (f) Article 14 (Agreements with street authorities);
- (g) Article 15 (Power to alter layout etc. of streets); and
- (h) Article 16 (Traffic Regulation).

(2) For the purposes of this Order only, the relevant local planning authority referred to in Part 8 of the 2008 Act shall be Lincolnshire County Council in respect of the following requirements—

- (a) Requirement 8 (Stages of authorised project onshore);
- (b) Requirement 9 (detailed onshore design parameters);
- (c) Requirement 10 (provision of landscaping);
- (d) Requirement 11 (implementation and maintenance of landscaping);
- (e) Requirement 12 (ecological management plan);
- (f) Requirement 13 (Fencing and other means of permanent enclosure);
- (g) Requirement 14 (Temporary fencing and other temporary means of enclosure);
- (h) Requirement 15 (Operational drainage management and emergency flood response);
- (i) Requirement 16 (Operational drainage management and emergency flood response);
- (j) Requirement 17 (onshore archaeology);
- (k) Requirement 18 (Code of construction practice);
- (l) Requirement 19 (Construction hours);
- (m) Requirement 20 (highway accesses);
- (n) Requirement 21 (traffic);
- (o) Requirement 22 (public rights of way);
- (p) Requirement 23 (Construction hours);
- (q) Requirement 24 (Onshore decommissioning);
- (r) Requirement 25 (Control of noise during operational phase);
- (s) Requirement 26 (Control of artificial light emissions during operational phase); and
- (t) Requirement 30 (Skills, supply chain and employment).

Signed by authority of the Secretary of State for Energy Security and Net Zero

Address	<i>Name</i>
Date	Title
	Department for Energy Security and Net Zero

SCHEDULE 1

Article 2

Authorised project

PART 1

Authorised development

1. A nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act which is located in the North Sea approximately 54 kilometres from the Lincolnshire coast, comprising—

Work No. 1—

- (a) an offshore wind turbine generating station with a gross electrical output capacity of over 100 MW comprising up to 100 wind turbine generators each fixed to the seabed by either monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations fitted with rotating blades and situated within the area shown on the works plans and further comprising (b) below;
- (b) a network of subsea array cables between the wind turbine generators and between the wind turbine generators and the offshore transformer substations forming part of Work No. 3 including one or more cable crossings;

and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising—

Work No. 2— up to one offshore accommodation platform fixed to the seabed by either monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations;

Work No. 3—

- (a) up to four small offshore transformer substations each fixed to the seabed by monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations; or
- (b) up to two large offshore transformer substations each fixed to the seabed by monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations;

Work No. 4— a network of interlink cables between the offshore transformer substations comprised within Work No. 3 and between the offshore transformer substations and the offshore accommodation platform comprised within Work No. 2, for the transmission of electricity and electronic communications, including one or more cable crossings;

Work No. 5— up to four cable circuits between Work No.3 and Work No.7, and between Work No.7 and Work No.11 or between Work No.3 and Work No.11 consisting of offshore export cables along routes within the Order limits seaward of MLWS including one or more cable crossings;

Work No. 6— up to six temporary trenchless technique exit pits;

Work No. 7— up to two offshore reactive compensation platforms fixed to the seabed by monopile, pin pile jacket or suction bucket jacket foundations;

Work No. 8— a temporary work area associated with Work Nos. 1, 2, 3, 4, 5, 6, 7, 9, 10 and 11 for vessels to carry out anchoring and positioning, and for the wet storage of construction materials;

Work No. 9— offshore artificial nesting structure(s);

Work No. 10— creation and recreation of biogenic reef within the Inner Dowsing Race Bank and North Ridge Special Area of Conservation;

Between MLWS and MHWS and in the County of Lincolnshire, District of East Lindsey

Work No. 11— landfall connection works consisting of up to four underground cable circuits and up to six associated cable ducts to Work No. 12;

In the County of Lincolnshire, District of East Lindsey, the Borough of Boston and the District of South Holland

Work No. 12— up to four underground cable circuits and up to six associated cable ducts to Work No. 13;

Work No. 13—works consisting of—

- (a) up to six trenchless technique drilling launch pits;
- (b) up to four underground cable circuits and up to six associated cable ducts to Work No. 14;
- (c) up to four underground cable circuits and associated cable ducts from Work No. 14 to Work No. 15;
- (d) a landfall temporary works area;
- (e) storage areas;
- (f) drainage works;
- (g) construction of a haul road; and
- (h) vehicular access tracks, bellmouths and footpaths;

Work No. 14— up to six transition joint bays including ground preparation;

Work No. 15— works consisting of—

- (a) up to four underground cable circuits and associated cable ducts to Work No. 16;
- (b) up to 680 link boxes and/or earth pits;
- (c) up to 680 joint bays;
- (d) temporary trenchless technique compounds;
- (e) storage areas;
- (f) drainage works;
- (g) construction of a haul road; and
- (h) vehicular access tracks, bellmouths and footpaths;

Work No. 16— works consisting of—

- (a) an onshore HVAC substation;
- (b) up to four underground cable circuits and associated cable ducts between Work No. 15 and the onshore HVAC substation;
- (c) up to two underground cable circuits and associated cable ducts between the onshore HVAC substation and Work No.17;
- (d) construction of a haul road;
- (e) vehicular access tracks, bellmouths and footpaths;
- (f) temporary works areas to support the construction activities;
- (g) storage areas; and
- (h) ground preparation and ground-raising;

Work No. 17— connection works consisting of—

- (a) up to two underground cable circuits and associated cable ducts between the onshore HVAC substation forming part of Work No. 15 and a National Grid substation, including a connection above ground;

- (b) electrical engineering works within or around the National Grid substation buildings and compound;
- (c) up to 20 link boxes and/or earth pits;
- (d) up to 20 joint bays;
- (e) temporary trenchless technique compounds;
- (f) storage areas;
- (g) drainage works;
- (h) construction of a haul road; and
- (i) vehicular access tracks, bellmouths and footpaths;

Work No. 18— temporary vehicular access tracks, bellmouths and associated footpaths.

Work No. 19— temporary works consisting of—

- (a) temporary works areas to support the construction activities;
- (b) temporary construction ramps;
- (c) storage areas to assist with the onshore transmission works;
- (d) drainage works; and
- (e) vehicular access tracks, bellmouths and footpaths;

Work No. 20— permanent vehicular access tracks to serve Work Nos. 13 and 16, bellmouths, drainage works and associated footpaths;

Work No. 21—alterations including widening of the highway, provision of passing bays, culverting and drainage works;

Work No. 22— works comprising the reinforcement or replacement of the bridge;

Work No. 23— landscaping works including bunding and planting, drainage works, and formation of footpaths and access;

Work No. 24— drainage works, formation of footpaths and access;

Work No. 25— drainage works, sustainable drainage system ponds, surface water management systems, formation of footpaths and access;

In connection with such Work Nos. 1 to 11 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as but not limited to the placement of rock, split pipe system, and/or mattresses;
- (c) cable crossings;
- (d) dredging;
- (e) the removal of material from the seabed required for the construction of Work Nos. 1 to 11 and the disposal of inert material of natural origin and dredged material within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation works (such as sandwave clearance and boulder clearance) and excavation of trenchless technique drilling pits; and
- (f) removal of static fishing equipment;

and in connection with such Work Nos. 11 to 25 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised

development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) haul roads, ramps, bridges, means of access and footpaths, creation and enhancement of tracks and footpaths;
- (b) bunds, embankments, swales, landscaping, ground preparation, vegetation clearance, ground-raising, signage, fencing and boundary treatments;
- (c) habitat creation and enhancement;
- (d) spoil storage and associated control measures;
- (e) joint bays, link boxes, earth pits, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable marker, tiles and tape, and lighting and other works associated with duct installation, cable laying and pulling cables through cable ducts;
- (f) works for the provision of apparatus, including cabling, water and electricity supply works, foul drainage provision, surface water management systems, flumes and culverting;
- (g) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (h) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (i) landscaping and related works;
- (j) other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised project;
- (k) works for the benefit or protection of land affected by the authorised project;
- (l) working sites in connection with the construction of the authorised project, construction lay down areas and compounds, storage compounds and their restoration;
- (m) works of restoration; and
- (n) fencing or other means of enclosure.

2. The grid coordinates for that part of the authorised project which is seaward of MHWS are specified below and more particularly shown on the offshore order limits and grid coordinates plan—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	53° 08' 52.043" N	000° 54' 34.557" E
2	53° 11' 4.707" N	000° 50' 25.862" E
3	53° 11' 34.315" N	000° 51' 21.795" E
5	53° 09' 58.581" N	000° 34' 54.557" E
6	53° 10' 23.017" N	000° 33' 37.116" E
7	53° 08' 44.097" N	000° 32' 22.615" E
8	53° 08' 46.490" N	000° 31' 6.276" E
9	53° 11' 18.105" N	000° 33' 14.671" E
10	53° 10' 37.912" N	000° 35' 44.425" E
12	53° 12' 23.449" N	000° 35' 5.357" E
13	53° 12' 28.510" N	000° 34' 44.027" E
14	53° 13' 50.373" N	000° 35' 38.913" E
15	53° 13' 18.481" N	000° 36' 31.958" E
17	53° 07' 37.765" N	000° 59' 12.242" E
18	53° 13' 9.723" N	000° 54' 3.794" E
19	53° 15' 9.191" N	000° 55' 41.727" E
20	53° 13' 25.250" N	001° 00' 8.828" E
22	53° 14' 4.788" N	000° 38' 30.377" E
23	53° 14' 6.175" N	000° 37' 53.971" E

24	53° 15' 1.702" N	000° 38' 1.679" E
25	53° 15' 1.685" N	000° 38' 4.229" E
26	53° 15' 51.200" N	000° 38' 26.112" E
27	53° 15' 34.130" N	000° 39' 8.260" E
29	53° 15' 9.583" N	000° 42' 34.551" E
30	53° 15' 41.756" N	000° 41' 36.844" E
31	53° 15' 56.790" N	000° 41' 37.691" E
32	53° 16' 56.770" N	000° 43' 12.509" E
33	53° 16' 23.463" N	000° 43' 54.514" E
35	53° 16' 19.458" N	000° 34' 46.173" E
36	53° 17' 17.615" N	000° 34' 54.292" E
37	53° 17' 8.480" N	000° 35' 44.114" E
39	53° 15' 29.389" N	000° 39' 45.725" E
40	53° 16' 2.527" N	000° 38' 31.120" E
41	53° 17' 22.679" N	000° 39' 6.577" E
42	53° 17' 43.004" N	000° 39' 53.733" E
43	53° 17' 27.210" N	000° 41' 31.415" E
45	53° 16' 22.557" N	000° 37' 45.996" E
46	53° 16' 36.345" N	000° 37' 14.922" E
47	53° 18' 2.541" N	000° 37' 52.688" E
48	53° 17' 50.789" N	000° 39' 5.529" E
49	53° 17' 13.200" N	000° 38' 2.681" E
51	53° 20' 31.908" N	000° 40' 44.792" E
52	53° 20' 31.498" N	000° 39' 39.921" E
53	53° 20' 34.873" N	000° 39' 39.958" E
54	53° 20' 36.959" N	000° 34' 13.419" E
55	53° 21' 9.344" N	000° 34' 47.278" E
56	53° 21' 8.449" N	000° 40' 40.884" E
58	53° 21' 42.482" N	000° 54' 35.283" E
59	53° 21' 40.385" N	000° 52' 17.167" E
60	53° 22' 28.482" N	000° 51' 11.974" E
61	53° 22' 27.873" N	000° 52' 52.820" E
63	53° 21' 43.928" N	000° 45' 47.084" E
64	53° 22' 28.984" N	000° 46' 1.429" E
65	53° 22' 28.153" N	000° 48' 3.606" E
67	53° 21' 49.731" N	000° 43' 36.612" E
68	53° 22' 31.123" N	000° 43' 21.156" E
69	53° 22' 24.719" N	000° 44' 59.434" E
70	53° 21' 52.700" N	000° 45' 0.546" E
72	53° 23' 28.968" N	001° 36' 50.876" E
73	53° 24' 16.718" N	001° 36' 29.872" E
74	53° 25' 20.282" N	001° 40' 32.493" E
75	53° 26' 57.794" N	001° 43' 24.853" E
76	53° 27' 49.898" N	001° 44' 31.828" E
77	53° 29' 41.527" N	001° 45' 49.905" E
78	53° 30' 58.889" N	001° 46' 11.727" E
79	53° 32' 26.981" N	001° 46' 26.029" E
80	53° 29' 31.665" N	001° 50' 59.277" E
81	53° 28' 40.456" N	001° 50' 35.937" E
82	53° 28' 15.252" N	001° 49' 10.015" E

83	53° 27' 55.714" N	001° 48' 37.205" E
84	53° 27' 22.142" N	001° 48' 29.033" E
85	53° 26' 51.166" N	001° 48' 21.158" E
86	53° 26' 12.576" N	001° 48' 8.060" E
87	53° 25' 38.653" N	001° 48' 8.593" E
88	53° 15' 23.267" N	000° 19' 43.506" E
89	53° 15' 23.609" N	000° 19' 44.116" E
90	53° 15' 23.996" N	000° 19' 44.804" E
91	53° 15' 24.263" N	000° 19' 45.279" E
92	53° 15' 26.776" N	000° 19' 49.753" E
93	53° 15' 27.959" N	000° 19' 51.860" E
94	53° 15' 38.568" N	000° 20' 24.961" E
95	53° 15' 38.569" N	000° 20' 25.004" E
96	53° 15' 38.571" N	000° 20' 25.302" E
97	53° 15' 38.575" N	000° 20' 25.748" E
98	53° 15' 38.627" N	000° 20' 32.317" E
99	53° 15' 38.679" N	000° 20' 38.886" E
100	53° 15' 40.504" N	000° 24' 36.753" E
101	53° 15' 45.998" N	000° 27' 7.864" E
102	53° 15' 46.001" N	000° 27' 13.231" E
103	53° 15' 57.880" N	000° 27' 43.029" E
104	53° 16' 27.853" N	000° 29' 7.103" E
105	53° 16' 56.862" N	000° 30' 14.887" E
106	53° 17' 5.090" N	000° 30' 34.122" E
107	53° 17' 10.091" N	000° 30' 45.655" E
108	53° 17' 11.076" N	000° 31' 48.010" E
109	53° 17' 40.520" N	000° 31' 55.865" E
110	53° 18' 59.574" N	000° 34' 58.518" E
111	53° 19' 1.928" N	000° 35' 3.962" E
112	53° 19' 28.366" N	000° 35' 2.779" E
113	53° 19' 29.931" N	000° 36' 32.909" E
114	53° 19' 30.814" N	000° 36' 36.504" E
115	53° 19' 52.317" N	000° 38' 4.115" E
116	53° 20' 5.544" N	000° 39' 33.663" E
117	53° 20' 5.352" N	000° 39' 34.675" E
118	53° 20' 5.258" N	000° 39' 39.628" E
119	53° 20' 3.949" N	000° 40' 47.782" E
120	53° 20' 3.608" N	000° 41' 5.490" E
121	53° 20' 6.501" N	000° 42' 12.019" E
122	53° 20' 13.168" N	000° 43' 51.174" E
123	53° 20' 16.468" N	000° 44' 20.272" E
124	53° 20' 26.562" N	000° 44' 49.621" E
125	53° 20' 39.175" N	000° 45' 11.903" E
126	53° 20' 46.964" N	000° 45' 18.483" E
127	53° 20' 52.069" N	000° 45' 21.845" E
128	53° 20' 53.926" N	000° 45' 22.442" E
129	53° 21' 21.774" N	000° 46' 25.825" E
130	53° 21' 25.062" N	000° 46' 38.723" E
131	53° 21' 26.153" N	000° 46' 53.091" E
132	53° 21' 28.991" N	000° 52' 59.849" E

133	53° 21' 30.092" N	000° 55' 34.182" E
134	53° 21' 31.588" N	000° 59' 17.599" E
135	53° 20' 38.347" N	001° 02' 14.919" E
136	53° 20' 32.026" N	001° 06' 59.054" E
137	53° 25' 18.619" N	001° 13' 18.173" E
138	53° 25' 30.060" N	001° 13' 18.317" E
139	53° 25' 30.054" N	001° 13' 35.555" E
140	53° 25' 55.049" N	001° 13' 35.555" E
141	53° 26' 5.529" N	001° 13' 18.763" E
142	53° 28' 51.538" N	001° 13' 20.848" E
143	53° 28' 51.539" N	001° 13' 20.848" E
144	53° 28' 27.088" N	001° 10' 54.113" E
145	53° 28' 40.336" N	001° 10' 32.794" E
146	53° 29' 37.647" N	001° 09' 0.491" E
147	53° 29' 37.332" N	001° 06' 3.730" E
148	53° 29' 19.041" N	001° 03' 53.183" E
149	53° 32' 32.232" N	001° 00' 59.093" E
150	53° 34' 31.492" N	001° 04' 32.616" E
151	53° 36' 34.077" N	001° 08' 26.916" E
152	53° 39' 12.689" N	001° 28' 43.588" E
153	53° 32' 3.757" N	001° 32' 46.680" E
154	53° 30' 57.848" N	001° 26' 4.442" E
155	53° 30' 57.847" N	001° 26' 4.443" E
156	53° 30' 41.451" N	001° 26' 4.344" E
157	53° 28' 8.999" N	001° 20' 25.101" E
158	53° 27' 40.033" N	001° 19' 34.731" E
159	53° 25' 5.940" N	001° 15' 7.257" E
160	53° 24' 46.824" N	001° 14' 57.503" E
161	53° 19' 31.608" N	001° 08' 0.786" E
162	53° 19' 24.645" N	001° 07' 36.669" E
163	53° 19' 32.549" N	001° 01' 47.090" E
164	53° 20' 25.533" N	000° 58' 51.469" E
165	53° 20' 23.532" N	000° 54' 14.849" E
166	53° 20' 17.139" N	000° 54' 1.469" E
167	53° 20' 23.390" N	000° 53' 56.111" E
168	53° 20' 21.723" N	000° 50' 23.738" E
169	53° 18' 58.945" N	000° 51' 27.099" E
170	53° 19' 48.338" N	000° 49' 21.912" E
171	53° 20' 10.572" N	000° 49' 12.331" E
172	53° 20' 9.719" N	000° 48' 27.666" E
173	53° 20' 20.538" N	000° 48' 0.206" E
174	53° 20' 20.128" N	000° 47' 11.924" E
175	53° 20' 7.723" N	000° 46' 44.092" E
176	53° 20' 7.224" N	000° 46' 18.376" E
177	53° 19' 55.934" N	000° 46' 17.647" E
178	53° 19' 16.741" N	000° 44' 49.770" E
179	53° 19' 14.408" N	000° 44' 37.520" E
180	53° 19' 10.983" N	000° 41' 29.891" E
181	53° 19' 10.110" N	000° 41' 14.849" E
182	53° 19' 7.280" N	000° 40' 53.837" E

183	53° 18' 2.446" N	000° 41' 0.758" E
184	53° 18' 3.678" N	000° 40' 34.763" E
185	53° 18' 15.768" N	000° 40' 40.440" E
186	53° 18' 15.469" N	000° 39' 46.818" E
187	53° 18' 10.407" N	000° 39' 38.348" E
188	53° 18' 57.173" N	000° 39' 38.869" E
189	53° 18' 45.400" N	000° 38' 11.684" E
190	53° 18' 41.693" N	000° 37' 50.173" E
191	53° 18' 35.812" N	000° 37' 24.430" E
192	53° 18' 29.442" N	000° 37' 5.808" E
193	53° 18' 2.522" N	000° 35' 59.804" E
194	53° 16' 6.448" N	000° 31' 34.059" E
195	53° 15' 50.420" N	000° 30' 57.424" E
196	53° 15' 48.037" N	000° 30' 51.021" E
197	53° 15' 47.270" N	000° 30' 48.961" E
198	53° 14' 39.608" N	000° 27' 47.363" E
199	53° 14' 35.060" N	000° 25' 16.597" E
200	53° 14' 33.873" N	000° 25' 11.876" E
201	53° 14' 33.575" N	000° 23' 39.547" E
202	53° 14' 33.585" N	000° 23' 28.949" E
203	53° 14' 33.002" N	000° 23' 11.567" E
204	53° 14' 32.153" N	000° 22' 59.859" E
205	53° 14' 31.408" N	000° 21' 15.880" E
206	53° 14' 31.378" N	000° 21' 11.732" E
207	53° 14' 31.330" N	000° 21' 5.095" E
208	53° 14' 31.327" N	000° 21' 4.768" E
209	53° 14' 58.072" N	000° 20' 10.457" E
210	53° 14' 59.426" N	000° 20' 7.707" E
211	53° 15' 0.149" N	000° 20' 6.239" E
212	53° 15' 0.842" N	000° 20' 4.832" E
213	53° 15' 1.277" N	000° 20' 3.947" E
214	53° 15' 1.277" N	000° 20' 3.945" E
215	53° 15' 1.296" N	000° 20' 3.751" E
216	53° 15' 1.373" N	000° 20' 2.965" E
217	53° 15' 1.401" N	000° 20' 2.668" E
218	53° 15' 1.440" N	000° 20' 2.267" E
219	53° 15' 1.457" N	000° 20' 2.096" E
220	53° 15' 1.487" N	000° 20' 1.785" E
221	53° 15' 1.527" N	000° 20' 1.379" E
222	53° 15' 1.564" N	000° 20' 0.999" E
223	53° 15' 1.735" N	000° 19' 59.239" E
224	53° 15' 1.800" N	000° 19' 58.564" E
225	53° 15' 1.998" N	000° 19' 56.531" E
226	53° 15' 2.022" N	000° 19' 56.279" E
227	53° 15' 2.103" N	000° 19' 55.451" E
228	53° 15' 2.274" N	000° 19' 53.691" E
229	53° 15' 2.334" N	000° 19' 53.677" E
230	53° 15' 2.411" N	000° 19' 53.654" E
231	53° 15' 2.445" N	000° 19' 53.644" E
232	53° 15' 2.599" N	000° 19' 53.601" E

233	53° 15' 2.725" N	000° 19' 53.558" E
234	53° 15' 2.871" N	000° 19' 53.501" E
235	53° 15' 2.929" N	000° 19' 53.479" E
236	53° 15' 3.014" N	000° 19' 53.443" E
237	53° 15' 3.055" N	000° 19' 53.425" E
238	53° 15' 3.098" N	000° 19' 53.404" E
239	53° 15' 3.232" N	000° 19' 53.334" E
240	53° 15' 3.355" N	000° 19' 53.263" E
241	53° 15' 3.511" N	000° 19' 53.179" E
242	53° 15' 3.614" N	000° 19' 53.118" E
243	53° 15' 3.849" N	000° 19' 52.987" E
244	53° 15' 3.987" N	000° 19' 52.906" E
245	53° 15' 4.127" N	000° 19' 52.828" E
246	53° 15' 4.172" N	000° 19' 52.801" E
247	53° 15' 4.314" N	000° 19' 52.718" E
248	53° 15' 4.410" N	000° 19' 52.657" E
249	53° 15' 4.474" N	000° 19' 52.619" E
250	53° 15' 4.549" N	000° 19' 52.572" E
251	53° 15' 4.617" N	000° 19' 52.525" E
252	53° 15' 4.705" N	000° 19' 52.470" E
253	53° 15' 4.764" N	000° 19' 52.430" E
254	53° 15' 4.930" N	000° 19' 52.324" E
255	53° 15' 5.065" N	000° 19' 52.233" E
256	53° 15' 5.215" N	000° 19' 52.140" E
257	53° 15' 5.231" N	000° 19' 52.131" E
258	53° 15' 5.464" N	000° 19' 52.000" E
259	53° 15' 5.572" N	000° 19' 51.946" E
260	53° 15' 5.656" N	000° 19' 51.906" E
261	53° 15' 5.883" N	000° 19' 51.810" E
262	53° 15' 5.963" N	000° 19' 51.784" E
263	53° 15' 6.054" N	000° 19' 51.750" E
264	53° 15' 6.178" N	000° 19' 51.712" E
265	53° 15' 6.268" N	000° 19' 51.677" E
266	53° 15' 6.435" N	000° 19' 51.628" E
267	53° 15' 6.580" N	000° 19' 51.589" E
268	53° 15' 6.680" N	000° 19' 51.555" E
269	53° 15' 6.754" N	000° 19' 51.533" E
270	53° 15' 6.826" N	000° 19' 51.512" E
271	53° 15' 6.989" N	000° 19' 51.460" E
272	53° 15' 7.190" N	000° 19' 51.392" E
273	53° 15' 7.297" N	000° 19' 51.358" E
274	53° 15' 7.380" N	000° 19' 51.328" E
275	53° 15' 7.403" N	000° 19' 51.320" E
276	53° 15' 7.478" N	000° 19' 51.296" E
277	53° 15' 7.628" N	000° 19' 51.242" E
278	53° 15' 7.864" N	000° 19' 51.164" E
279	53° 15' 7.969" N	000° 19' 51.124" E
280	53° 15' 8.032" N	000° 19' 51.098" E
281	53° 15' 8.156" N	000° 19' 51.056" E
282	53° 15' 8.252" N	000° 19' 51.020" E

283	53° 15' 8.321" N	000° 19' 50.997" E
284	53° 15' 8.472" N	000° 19' 50.934" E
285	53° 15' 8.584" N	000° 19' 50.893" E
286	53° 15' 8.705" N	000° 19' 50.838" E
287	53° 15' 8.820" N	000° 19' 50.789" E
288	53° 15' 8.902" N	000° 19' 50.753" E
289	53° 15' 8.959" N	000° 19' 50.730" E
290	53° 15' 9.197" N	000° 19' 50.618" E
291	53° 15' 9.359" N	000° 19' 50.538" E
292	53° 15' 9.360" N	000° 19' 50.538" E
293	53° 15' 9.500" N	000° 19' 50.467" E
294	53° 15' 9.595" N	000° 19' 50.423" E
295	53° 15' 9.632" N	000° 19' 50.408" E
296	53° 15' 9.676" N	000° 19' 50.391" E
297	53° 15' 9.772" N	000° 19' 50.345" E
298	53° 15' 9.802" N	000° 19' 50.332" E
299	53° 15' 9.902" N	000° 19' 50.296" E
300	53° 15' 10.002" N	000° 19' 50.256" E
301	53° 15' 10.111" N	000° 19' 50.219" E
302	53° 15' 10.185" N	000° 19' 50.191" E
303	53° 15' 10.337" N	000° 19' 50.142" E
304	53° 15' 10.498" N	000° 19' 50.088" E
305	53° 15' 10.582" N	000° 19' 50.064" E
306	53° 15' 10.674" N	000° 19' 50.032" E
307	53° 15' 10.755" N	000° 19' 50.007" E
308	53° 15' 10.800" N	000° 19' 49.992" E
309	53° 15' 10.926" N	000° 19' 49.958" E
310	53° 15' 11.031" N	000° 19' 49.933" E
311	53° 15' 11.176" N	000° 19' 49.889" E
312	53° 15' 11.272" N	000° 19' 49.864" E
313	53° 15' 11.406" N	000° 19' 49.821" E
314	53° 15' 11.545" N	000° 19' 49.780" E
315	53° 15' 11.663" N	000° 19' 49.741" E
316	53° 15' 11.755" N	000° 19' 49.714" E
317	53° 15' 12.058" N	000° 19' 49.609" E
318	53° 15' 12.173" N	000° 19' 49.566" E
319	53° 15' 12.268" N	000° 19' 49.533" E
320	53° 15' 12.368" N	000° 19' 49.493" E
321	53° 15' 12.415" N	000° 19' 49.474" E
322	53° 15' 12.494" N	000° 19' 49.444" E
323	53° 15' 12.635" N	000° 19' 49.381" E
324	53° 15' 12.762" N	000° 19' 49.328" E
325	53° 15' 13.052" N	000° 19' 49.186" E
326	53° 15' 13.161" N	000° 19' 49.129" E
327	53° 15' 13.252" N	000° 19' 49.083" E
328	53° 15' 13.441" N	000° 19' 48.981" E
329	53° 15' 13.679" N	000° 19' 48.847" E
330	53° 15' 13.777" N	000° 19' 48.791" E
331	53° 15' 13.906" N	000° 19' 48.711" E
332	53° 15' 14.019" N	000° 19' 48.646" E

333	53° 15' 14.135" N	000° 19' 48.577" E
334	53° 15' 14.204" N	000° 19' 48.537" E
335	53° 15' 14.312" N	000° 19' 48.469" E
336	53° 15' 14.429" N	000° 19' 48.400" E
337	53° 15' 14.508" N	000° 19' 48.351" E
338	53° 15' 14.581" N	000° 19' 48.309" E
339	53° 15' 14.601" N	000° 19' 48.297" E
340	53° 15' 14.757" N	000° 19' 48.202" E
341	53° 15' 14.865" N	000° 19' 48.143" E
342	53° 15' 14.979" N	000° 19' 48.073" E
343	53° 15' 15.067" N	000° 19' 48.025" E
344	53° 15' 15.283" N	000° 19' 47.900" E
345	53° 15' 15.348" N	000° 19' 47.866" E
346	53° 15' 15.418" N	000° 19' 47.824" E
347	53° 15' 15.591" N	000° 19' 47.727" E
348	53° 15' 15.705" N	000° 19' 47.666" E
349	53° 15' 15.910" N	000° 19' 47.566" E
350	53° 15' 15.984" N	000° 19' 47.528" E
351	53° 15' 16.207" N	000° 19' 47.426" E
352	53° 15' 16.366" N	000° 19' 47.356" E
353	53° 15' 16.476" N	000° 19' 47.302" E
354	53° 15' 16.571" N	000° 19' 47.258" E
355	53° 15' 16.663" N	000° 19' 47.211" E
356	53° 15' 16.714" N	000° 19' 47.188" E
357	53° 15' 16.745" N	000° 19' 47.174" E
358	53° 15' 16.846" N	000° 19' 47.122" E
359	53° 15' 16.942" N	000° 19' 47.069" E
360	53° 15' 17.045" N	000° 19' 47.017" E
361	53° 15' 17.136" N	000° 19' 46.965" E
362	53° 15' 17.314" N	000° 19' 46.859" E
363	53° 15' 17.541" N	000° 19' 46.719" E
364	53° 15' 17.632" N	000° 19' 46.654" E
365	53° 15' 17.790" N	000° 19' 46.554" E
366	53° 15' 18.012" N	000° 19' 46.402" E
367	53° 15' 18.125" N	000° 19' 46.329" E
368	53° 15' 18.196" N	000° 19' 46.280" E
369	53° 15' 18.290" N	000° 19' 46.219" E
370	53° 15' 18.374" N	000° 19' 46.159" E
371	53° 15' 18.524" N	000° 19' 46.059" E
372	53° 15' 18.621" N	000° 19' 45.996" E
373	53° 15' 18.775" N	000° 19' 45.890" E
374	53° 15' 18.912" N	000° 19' 45.791" E
375	53° 15' 19.052" N	000° 19' 45.697" E
376	53° 15' 19.145" N	000° 19' 45.629" E
377	53° 15' 19.209" N	000° 19' 45.585" E
378	53° 15' 19.290" N	000° 19' 45.525" E
379	53° 15' 19.359" N	000° 19' 45.475" E
380	53° 15' 19.443" N	000° 19' 45.409" E
381	53° 15' 19.548" N	000° 19' 45.332" E
382	53° 15' 19.615" N	000° 19' 45.279" E

383	53° 15' 19.684" N	000° 19' 45.227" E
384	53° 15' 19.750" N	000° 19' 45.174" E
385	53° 15' 19.840" N	000° 19' 45.105" E
386	53° 15' 19.923" N	000° 19' 45.039" E
387	53° 15' 20.207" N	000° 19' 44.795" E
388	53° 15' 20.321" N	000° 19' 44.702" E
389	53° 15' 20.435" N	000° 19' 44.601" E
390	53° 15' 20.522" N	000° 19' 44.527" E
391	53° 15' 20.609" N	000° 19' 44.449" E
392	53° 15' 20.674" N	000° 19' 44.394" E
393	53° 15' 20.785" N	000° 19' 44.304" E
394	53° 15' 21.028" N	000° 19' 44.094" E
395	53° 15' 21.111" N	000° 19' 44.021" E
396	53° 15' 21.160" N	000° 19' 43.976" E
397	53° 15' 21.390" N	000° 19' 43.775" E
398	53° 15' 21.471" N	000° 19' 43.702" E
399	53° 15' 21.793" N	000° 19' 43.427" E
400	53° 15' 21.939" N	000° 19' 43.309" E
401	53° 15' 22.020" N	000° 19' 43.249" E
402	53° 15' 22.153" N	000° 19' 43.148" E
403	53° 15' 22.257" N	000° 19' 43.071" E
404	53° 15' 22.317" N	000° 19' 43.033" E
405	53° 15' 22.396" N	000° 19' 42.980" E
406	53° 15' 22.448" N	000° 19' 42.949" E
407	53° 15' 22.525" N	000° 19' 42.900" E
408	53° 15' 22.642" N	000° 19' 42.831" E
409	53° 15' 22.683" N	000° 19' 42.809" E
410	53° 15' 22.809" N	000° 19' 42.745" E
411	53° 15' 22.830" N	000° 19' 42.736" E
412	53° 15' 23.143" N	000° 19' 43.292" E
413	53° 15' 23.267" N	000° 19' 43.506" E
415	53° 45' 33.891" N	001° 00' 32.907" E
416	53° 45' 4.594" N	001° 03' 26.056" E
417	53° 44' 36.965" N	001° 01' 37.843" E
418	53° 43' 49.104" N	000° 59' 30.164" E
419	53° 42' 55.282" N	000° 57' 43.981" E
420	53° 41' 29.957" N	000° 56' 3.720" E
421	53° 40' 23.371" N	000° 54' 7.750" E
422	53° 40' 29.385" N	000° 52' 22.939" E
423	53° 40' 36.281" N	000° 51' 30.886" E
424	53° 45' 43.118" N	000° 51' 54.642" E
425	53° 45' 14.743" N	000° 54' 25.985" E
426	53° 45' 27.752" N	000° 55' 46.378" E
427	53° 45' 58.939" N	000° 55' 49.294" E
428	53° 46' 23.766" N	000° 57' 46.036" E
430	53° 45' 6.151" N	000° 56' 50.100" E
431	53° 45' 28.354" N	000° 57' 29.801" E
432	53° 45' 51.883" N	000° 56' 52.331" E
433	53° 45' 29.676" N	000° 56' 12.629" E

PART 2

Ancillary Works

1. Works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised development;
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works;
- (c) buoys such as wave buoys and LiDAR buoys used for measurement purposes;
- (d) temporary works for the benefit or protection of land or structures affected by the authorised development; and
- (e) planting of hedgerows and trees.

PART 3

Requirements

Time Limits

1. The authorised project must commence no later than the expiration of five years beginning with the date this Order comes into force.

Detailed offshore design parameters

2.—(1) Subject to sub-paragraph (2), each wind turbine generator forming part of the authorised project must not—

- (a) exceed a height of 403 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a rotor diameter of 340 metres;
- (c) be less than 40 metres from MSL to the lowest point of the rotating blade; and
- (d) be less than 605 metres from blade tip to the blade tip of the nearest wind turbine generator.

(2) Wind turbine generator foundation structures forming part of the authorised project must be monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(3) In respect of a wind turbine generator—

- (a) no monopile foundation may have a diameter greater than 13 metres;
- (b) no gravity base structure foundation may have a diameter at the level of the seabed greater than 55 metres;
- (c) no pin pile jacket foundation forming part of the authorised project may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than four pin piles per jacket foundation;
- (d) no suction bucket jacket foundation forming part of the authorised project may—
 - (i) have a suction bucket diameter of greater than 20 metres; or
 - (ii) employ more than four suction buckets per jacket foundation;

(4) The total seabed footprint area for wind turbine generator foundations must not exceed—

- (a) 122,904 square metres excluding scour protection; and
- (b) 1,041,400 square metres including scour protection.

3.—(1) The total number of offshore electrical installations and offshore accommodation platforms must not exceed seven, consisting of a combination of no more than—

- (a) four small offshore transformer substations or two large offshore transformer substations;
- (b) two offshore reactive compensation platforms; and
- (c) one offshore accommodation platform.

(2) The total number of offshore artificial nesting structures must not exceed two.

(3) The dimensions of any small offshore transformer substation comprised within Work No. 3(a) (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

- (a) 90 metres in height when measured from LAT;
- (b) 90 metres in length; and
- (c) 90 metres in width.

(4) The dimensions of any large offshore transformer substation comprised within Work No. 3(b) (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

- (a) 100 metres in height when measured from LAT;
- (b) 160 metres in length; and
- (c) 110 metres in width.

(5) The dimensions of any offshore reactive compensation platform (including auxiliary structures, such as a crane, but excluding masts, lightning protection, radar and antennae) forming part of the authorised project must not exceed—

- (a) 59.2 metres in height when measured from LAT;
- (b) 90 metres in length; and
- (c) 90 metres in width;

and any masts, lightning protection, radar and antennae forming part of any offshore reactive compensation platform must not exceed 79.2 metres in height when measured from LAT.

(6) The dimensions of the offshore accommodation platform forming part of the authorised project must not exceed—

- (a) 80.2 metres in height when measured from LAT;
- (b) 84 metres in length; and
- (c) 84 metres in width.

(7) The dimensions of any offshore artificial nesting structure comprised within Work No. 9 forming part of the authorised project must not exceed—

- (a) 60 metres in height when measured from LAT;
- (b) 23 metres in length; and
- (c) 23 metres in width.

(8) Offshore accommodation platform foundation structures forming part of the authorised project must be one of either monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(9) Offshore transformer substation foundation structures forming part of the authorised project must be monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(10) Offshore artificial nesting structures foundation structures forming part of the authorised project must be monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(11) In respect of an offshore electrical installation and offshore accommodation platform—

- (a) no monopile foundation may have a diameter greater than 14 metres;
- (b) no gravity base structure foundation may exceed, at the level of the seabed—

- (i) a length of 72 metres; or
 - (ii) a width of 36 metres;
 - (c) no pin pile jacket foundation forming part of the authorised project may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than 24 pin piles per jacket foundation;
 - (d) no suction bucket jacket foundation forming part of the authorised project may—
 - (i) have a suction bucket diameter of greater than 20 metres; or
 - (ii) employ more than eight suction buckets per jacket foundation;
 - (12) In respect of an offshore artificial nesting structure—
 - (a) no monopile foundation may have a diameter greater than eight metres;
 - (b) no gravity base structure foundation may have a diameter at the level of the seabed greater than 50 metres;
 - (c) no pin pile jacket foundation forming part of the authorised project may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than four pin piles per jacket foundation;
 - (d) no suction bucket jacket foundation forming part of the authorised project may—
 - (i) have a suction bucket diameter of greater than ten metres; or
 - (ii) employ more than four suction buckets per jacket foundation;
 - (13) The total seabed footprint area for offshore accommodation platform foundations must not exceed—
 - (a) 2,600 square metres excluding scour protection; and
 - (b) 19,600 square metres including scour protection.
 - (14) The total seabed footprint area for offshore electrical installation foundations must not exceed—
 - (a) 15,600 square metres excluding scour protection; and
 - (b) 117,600 square metres including scour protection.
 - (15) The total seabed footprint area for offshore artificial nesting structure foundations must not exceed—
 - (a) 4,000 square metres excluding scour protection; and
 - (b) 24,600 square metres including scour protection.
 - (16) Offshore reactive compensation platform foundation structures forming part of the authorised project must be monopile, pin pile jacket or suction bucket jacket foundations.
- 4.—**(1) The maximum number of gravity base structure foundations must not exceed 50 per cent of the total number of wind turbine generators, offshore electrical installations, accommodation platform and offshore artificial nesting structures combined.
- (2) No wind turbine generator, offshore transformer substation or offshore accommodation platform forming part of the authorised project is to be erected within the area hatched black and marked “offshore restricted build area” on the works plans, whose coordinates are specified below and shown on the offshore order limits and grid coordinates plan—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
150	53° 34' 31.492" N	001° 04' 32.616" E
151	53° 36' 34.077" N	001° 08' 26.916" E
152	53° 39' 12.689" N	001° 28' 43.588" E
845	53° 33' 59.545" N	001° 03' 36.079" E
846	53° 33' 59.382" N	001° 03' 35.074" E
847	53° 34' 09.033" N	001° 03' 52.365" E

848	53° 34' 31.223" N	001° 04' 32.133" E
849	53° 36' 37.559" N	001° 19' 54.519" E
850	53° 38' 07.792" N	001° 29' 20.432" E
851	53° 34' 27.499" N	001° 06' 28.034" E

5. The total volume of scour protection for wind turbine generators, offshore accommodation platform, offshore electrical installations and offshore artificial nesting structures must not exceed 3,149,850 cubic metres.

6.—(1) In respect of the offshore export cables comprised within Work No. 5, the number of cable circuits must not exceed four.

(2) The cable circuits comprising Work No. 1(b) must not—

- (a) exceed 377.42 kilometres in length; and
- (b) be subject to cable protection with an area greater than 1,270,357 square metres.

(3) The cable circuits comprising Work No. 4 must not—

- (a) exceed 123.75 kilometres in length; and
- (b) be subject to cable protection with an area greater than 406,438 square metres.

(4) The cable circuits comprising Work No. 5 must not—

- (a) exceed 440 kilometres in length; and
- (b) be subject to cable protection with an area greater than 1,524,870 square metres.

(5) The total number of cable crossings must not exceed—

- (a) 30, in respect of the array cables comprised within Work No. 1(b);
- (b) 16, in respect of the interlink cables comprised within Work No. 4; and
- (c) 38, in respect of the offshore export cables comprised within Work No. 5

unless otherwise agreed with the MMO.

(6) The total volume of cable protection must not exceed 3,071,307 cubic metres with a maximum footprint of 3,201,655 square metres.

Offshore decommissioning

7. Work Nos. 1 to 7 must not commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) of the 2004 Act has been submitted to the Secretary of State for approval.

Stages of authorised project onshore

8.—(1) The onshore transmission works may not be commenced until a written scheme setting out the stages of the onshore transmission works has been submitted to and approved by Lincolnshire County Council in consultation with the relevant planning authority.

(2) Any amendments to the approved written scheme must be submitted to, and approved by, Lincolnshire County Council.

(3) The scheme must be implemented as approved. The approved details are to be taken to include any amendments that may subsequently be approved in accordance with sub-paragraph (2).

Detailed onshore design parameters

9.—(1) No stage of Work No. 16 may commence until for that stage details of—

- (a) the layout, scale, building elevations and external appearance of the onshore HVAC substation;
- (b) proposed finished ground levels;

- (c) operational lighting;
- (d) hard surfacing materials; and
- (e) vehicular and pedestrian access, parking and circulation areas

have been submitted to and approved by the Lincolnshire County Council in consultation with the relevant planning authority and, in respect of details submitted in accordance with (b), the Environment Agency.

(2) Work No. 16 must be carried out in accordance with the approved details.

(3) The details submitted under sub-paragraph (1) must be in accordance with the design principles statement and the design approach document.

(4) The cable ducts and cables comprised within Work No. 11 and Work No. 12 must be installed using a trenchless technique.

(5) The cable ducts and cables to be installed in plot 17-001 (as shown on the land plans) must be installed using a trenchless technique.

(6) The cable ducts and cables to be installed in plots 06-001, 06-002, 06-005, 06-007 and 06-008 (as shown on the land plans) must be installed using a trenchless technique.

Provision of landscaping

10.—(1) No stage of the onshore transmission works may commence until for that stage a written landscape management plan and associated work programme (which accords with the outline landscape and ecological management strategy) has been submitted to and approved by the Lincolnshire County Council in consultation with the relevant planning authority and the relevant statutory nature conservation body.

(2) The written landscape management plan(s) and associated work programme(s) must be implemented as approved.

Implementation and maintenance of landscaping

11.—(1) All landscaping works must be carried out and maintained in accordance with the landscape management plan(s) approved under requirement 10 (provision of landscaping), and in accordance with the relevant recommendations of appropriate British Standards.

(2) Unless otherwise stated in the approved landscape management plan, any tree or shrub planted as part of an approved landscape management plan that, within a period of five years after planting, is removed, dies or becomes, in the opinion of Lincolnshire County Council, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless alternative timing or a different specimen is otherwise approved by Lincolnshire County Council in consultation with the relevant planning authority.

Ecological management plan

12.—(1) No stage of the onshore transmission works may commence until for that stage a written ecological management plan (which accords with the outline landscape and ecological management strategy) reflecting survey results, and the ecological mitigation measures included in the environmental statement and including—

- (a) a protected species mitigation management plan;
- (b) a nesting birds management plan; and
- (c) a non-native invasive species management plan,

has been submitted to and approved by Lincolnshire County Council in consultation with the relevant statutory nature conservation body and the relevant planning authority.

(2) Onshore preparation works may not be carried out until a written ecological management plan (which accords with the outline landscape and ecological management strategy) for those

works reflecting survey results and the ecological mitigation measures included in the environmental statement has been submitted to and approved by Lincolnshire County Council in consultation with the relevant statutory nature conservation body and the relevant planning authority.

(3) The ecological management plan(s) must include an implementation timetable and must be carried out as approved.

Fencing and other means of permanent enclosure

13.—(1) No stage of the onshore transmission works may commence until details of all proposed permanent fences, walls or other means of enclosure of that stage of the onshore transmission works have been submitted to and approved by Lincolnshire County Council in consultation with the relevant planning authority.

(2) Any permanent fencing and other means of enclosure must be provided and maintained in accordance with the approved details.

(3) Any approved permanent fencing in relation to the onshore transmission works in Work No. 16 must be completed before those works are brought into use and must be maintained for the operational lifetime of the onshore transmission works in Work No. 16.

Temporary fencing and other temporary means of enclosure

14.—(1) The details of any temporary fences, walls, or other means of enclosure required for the construction of the onshore transmission works must be included in the code of construction practice approved under requirement 18 (Code of construction practice) and must accord with the outline code of construction practice.

(2) All construction sites must remain securely enclosed at all times during construction of the onshore transmission works in accordance with the details approved under sub-paragraph (1) above.

Operational drainage management and emergency flood response

15.—(1) No part of Work No. 16 may commence until an operational drainage management plan in respect of that part (which accords with the outline operational drainage management plan) and includes provision for the maintenance of any measures identified, has been submitted to and approved by the lead local flood authority, in consultation with the relevant planning authority.

(2) The operational drainage management plan must be implemented as approved.

(3) Work No. 16(a) must not begin operation until an operational emergency flood response plan in respect of Work No. 16 has been submitted to and approved by the lead local flood authority in consultation with the relevant planning authority.

(4) The operational emergency flood response plan must be implemented as approved.

Contaminated land and groundwater

16.—(1) No stage of the onshore transmission works may commence until a written scheme to deal with the contamination of any land (including groundwater) of that stage of the onshore transmission works within the Order limits that is likely to cause significant harm to persons or pollution of controlled waters or the environment has been submitted to, and approved by, Lincolnshire County Council in consultation with the relevant planning authority and the Environment Agency.

(2) The scheme must include an investigation and assessment report, to identify the extent of any contamination and the remedial measures to be taken for that stage to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(3) Remediation identified in the approved scheme must be carried out in accordance with the approved scheme.

Onshore archaeology

17.—(1) No stage of the onshore transmission works may commence until a written scheme of archaeological investigation (which must accord with the outline onshore written scheme of investigation for archaeological works and is informed by the archaeological investigations referred to in sub-paragraph (2)) for that stage has been submitted to and approved by Lincolnshire County Council in consultation with the relevant planning authority and Historic England.

(2) Archaeological investigations carried out as part of onshore preparation works must only take place in accordance with a specific written scheme of investigation (which must accord with the outline onshore written scheme of investigation for archaeological works) which has been submitted to and approved by Lincolnshire County Council in consultation with the relevant planning authority and Historic England.

(3) All archaeological investigations (other than archaeological investigations carried out as part of onshore preparation works referred to in sub-paragraph (2)) must be carried out in accordance with the written scheme of archaeological investigation approved under sub-paragraph (1).

(4) In the event that archaeological site investigation is required, the archaeological site investigations and post investigation assessment must be completed in accordance with the programme set out in the written scheme of archaeological investigation and provision made for analysis, publication and dissemination of results and archive deposition.

Code of construction practice

18.—(1) No stage of the onshore transmission works may commence until a code of construction practice (which must accord with the outline code of construction practice) for that stage has been submitted to and approved by Lincolnshire County Council following consultation, as appropriate, with—

- (a) the relevant planning authority;
- (b) the Environment Agency;
- (c) the relevant statutory nature conservation body;
- (d) in respect of the surface water drainage strategy referred to in sub-paragraph (2)(b), Anglian Water Services Limited;
- (e) if applicable, the MMO; and
- (f) if applicable, the Defence Infrastructure Organisation in respect of works comprising Work No. 12 and 13.

(2) The code of construction must include—

- (a) an air quality management plan (which accords with the outline air quality management plan);
- (b) a surface water drainage strategy (which accords with the outline surface water drainage strategy);
- (c) a noise and vibration management plan (which accords with the outline noise and vibration management plan);
- (d) a health, safety and environment plan;
- (e) a stakeholder communications plan;
- (f) a site waste management plan (which accords with the outline site waste management plan);
- (g) a flood management and response plan;
- (h) a pollution prevention and emergency incident response plan (which accords with the outline pollution prevention and emergency incident response plan);

- (i) an artificial light emissions plan;
- (j) a water quality management and mitigation plan;
- (k) where any land for that stage of the onshore transmission works is organically farmed, an organic land protocol (which accords with the outline organic land protocol); and
- (l) a soil management plan (which accords with the outline soil management plan).

(3) Any code of construction practice submitted under sub-paragraph (1) may cover one or more stages of the onshore transmission works.

(4) All construction works for each stage must be undertaken in accordance with the relevant approved code of construction practice.

Construction hours

19.—(1) Except as otherwise agreed in the code of construction practice and subject to sub-paragraphs (2) to (4), construction of the onshore transmission works and construction-related traffic movements to or from the site of the relevant work may take place only between 0700 hours and 1900 hours Monday to Saturday, with no activity on Sundays or bank holidays.

(2) Subject to sub-paragraphs (3) and (4), construction of the onshore transmission works and construction-related traffic movements to or from the site of the relevant work may take place outside the hours specified in sub-paragraph (1) for certain identified works including, but not limited to—

- (a) where continuous periods of construction are required, for works such as concrete pouring and finishing, operation of a trenchless technique, electrical circuit pulling and jointing and testing;
- (b) the delivery and unloading of abnormal loads;
- (c) the landfill works;
- (d) for internal fitting out works associated with the onshore HVAC substation;
- (e) the testing or commissioning of any electrical plant or cables installed as part of the authorised development; and
- (f) activity necessary in the instance of an emergency where there is a risk to persons, delivery of electricity or property.

(3) With the exception of activities undertaken in accordance with sub-paragraph (2)(f) and as provided in sub-paragraph (4), all construction works which are to be undertaken outside the hours specified in sub-paragraph (1) must be agreed in advance with Lincolnshire County Council.

(4) In respect of trenchless techniques—

- (a) where continuous 24-hour working is required, the undertaker must notify Lincolnshire County Council in advance of such works;
- (b) where a trenchless technique is to take place within 100 metres of an occupied dwelling, the works must take place within the hours specified in sub-paragraph (1) unless otherwise agreed in advance with the resident of that dwelling and notified to Lincolnshire County Council.

Highway Accesses

20.—(1) Construction of any new permanent or temporary means of access to a highway, or alteration of an existing means of access to a highway, must not begin until an access plan for that access has been submitted to and approved by the relevant highway authority.

(2) The access plan must include details of the siting, design, layout, visibility splays, access management measures, lighting, signing, safety measures and a maintenance programme relevant to the access it relates to.

(3) The highway accesses (including visibility splays) must be constructed, altered and maintained in accordance with the approved details.

Traffic

21.—(1) No stage of the onshore transmission works may commence until for that stage the following have been submitted to and approved by the relevant highway authority in consultation with the relevant planning authority—

- (a) a construction traffic management plan which must be in accordance with the outline construction traffic management plan; and
- (b) a travel plan which must be in accordance with the outline travel plan.

(2) The plans approved under sub-paragraph (1) must be implemented upon commencement of the relevant stage of the onshore transmission works.

Public rights of way

22.—(1) No stage of the onshore transmission works or onshore preparation works that would affect a public right of way specified in Schedule 3 (public rights of way to be temporarily stopped up) is to be undertaken until a public access management plan in respect of that stage and in accordance with the outline public access management plan, including the specification for the making up of an alternative right of way (where appropriate) has been submitted to and approved by the relevant highway authority in consultation with the relevant planning authority.

(2) Any alternative public rights of way must be implemented in accordance with the approved public access management plan.

Restoration of land used temporarily for construction

23. Any land landward of mean low water springs within the Order limits which is used temporarily for construction of the onshore transmission works and not ultimately incorporated in permanent works or approved landscaping must be reinstated, in accordance with such details as Lincolnshire County Council in consultation with the relevant planning authority may approve, within twelve months of completion of the relevant stage of the onshore transmission works or such other period as the relevant highway authority may approve.

Onshore decommissioning

24.—(1) The undertaker must notify Lincolnshire County Council of the permanent cessation of commercial operation of the onshore transmission works within 14 days following the date of permanent cessation.

(2) Within six months following the permanent cessation of commercial operation of the onshore transmission works an onshore decommissioning plan in respect of the onshore transmission works must be submitted to and approved by Lincolnshire County Council in consultation with the relevant highway authority, the relevant statutory nature conservation body the relevant planning authority and the Environment Agency.

(3) The decommissioning plan must be implemented as approved.

Control of noise during operational phase

25.—(1) The rating level for the standard operational noise of Work No. 16(a) must not exceed 35 dB $L_{Ar,15 \text{ min}}$ at any time at a position representative of the façade, in free-field conditions, of any building lawfully occupied for residential or accommodation purposes at the date of the granting of this Order, at each of the following locations—

- (a) Woad Farm, Surfleet Bank, Surfleet, Spalding, PE11 4DP (OS: 527809, 330462);
- (b) Big Tree Farm, Marsh Drove, Surfleet Marsh, Spalding, PE11 4DW (OS: 528672, 330701);
- (c) Hills Farm, Gosberton Bank, Spalding, Gosberton, PE11 4PB (OS: 527338, 331388);
- (d) 172 Marsh Road, Sutterton, Boston, PE20 2LT (OS: 528468, 332471).

(2) The rating level set out in sub-paragraph (1) are to be measured—

- (a) in accordance with British Standard BS 4142:2014+A1:2019, Methods for rating and assessing industrial and commercial sound; and
- (b) with the microphone placed 1.5 metres above the ground in free-field conditions (being at least 3.5 metres from the nearest vertical reflecting surface).

(3) Work No. 16(a) must not commence operation until a scheme for monitoring compliance with the rating levels set out in sub-paragraph (1) above has been submitted to and approved by Lincolnshire County Council in consultation with the relevant planning authority. The scheme must identify—

- (a) the required meteorological and other conditions under which the measurements will be taken, acknowledging that data obtained during emergency operation or testing of certain plant and equipment is not to be taken in to account;
- (b) suitable monitoring locations (or alternative surrogate locations if appropriate); and
- (c) times when the monitoring is to take place

to demonstrate that the rating levels have been achieved after Work No. 16(a) is operating at full capacity.

(4) The monitoring scheme must be implemented as approved.

(5) For the purposes of this requirement—

“operating at full capacity” means the ordinary operation of the substations excluding emergency operation and the testing of plant and equipment associated with emergency operation.

Control of artificial light emissions during operational phase

26.—(1) Work No. 16(a) must not begin operation until an operational artificial light emissions management plan (in accordance with the outline operational artificial light emissions management plan) providing details of artificial light emissions during the operation of Work No. 16(a), including measures to minimise lighting pollution and the hours of lighting, has been submitted to and approved by Lincolnshire County Council in consultation with the relevant planning authority.

(2) The approved operational artificial light emissions management plan must be implemented upon, and maintained during, the operation of Work No. 16(a).

Aviation Lighting

27.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2016(a) and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority.

(2) Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed in writing with the Ministry of Defence.

Requirement for written approval

28. Where under any of the above requirements the approval or agreement of the Secretary of State, Lincolnshire County Council or another person is required, that approval or agreement must be given in writing.

(a) S.I. 2016/765.

Amendments to approved details

29.—(1) With respect to any requirement which requires the authorised project to be carried out in accordance with the details approved by Lincolnshire County Council or another person (the “discharging authority”), the approved details must be carried out as approved unless an amendment or variation is previously approved in writing by Lincolnshire County Council or that other person in accordance with sub-paragraph (2) (after consulting any person that the discharging authority is required to consult under the relevant requirement).

(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of Lincolnshire County Council or that other person that the subject matter of the agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) The approved details must be taken to include any amendments that may subsequently be approved in writing by Lincolnshire County Council or that other person.

Skills, supply chain and employment

30.—(1) No stage of the onshore transmission works may commence until a skills, supply chain and employment plan in relation to that stage has been submitted to and approved by Lincolnshire County Council following consultation with the relevant planning authority.

(2) Any plan submitted in accordance with this requirement must identify opportunities for individuals and businesses to access employment and supply chain opportunities associated with that stage of the onshore transmission works and the means for publicising such opportunities.

(3) The skills, supply chain and employment plan must be implemented as approved.

Cromer and Claxby Radar Mitigation

31.—(1) No part of any wind turbine generator (excluding foundations) is to be erected as part of the authorised development until a primary radar mitigation scheme agreed in advance with the operator has been submitted to and approved in writing by the Secretary of State in order to mitigate the impact of the authorised development on the primary radars of the operator located at Cromer and Claxby and associated air traffic management operations.

(2) No wind turbine generator blades forming part of the authorised development may be installed until the approved primary radar mitigation scheme has been implemented and the authorised development must thereafter be operated fully in accordance with the approved scheme.

(3) For the purpose of sub-paragraphs (1) and (2) above—

“operator” means NATS (En Route) plc, incorporated under the Companies Act (Company Number 4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hampshire PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of the Transport Act); and

“primary radar mitigation scheme” or “scheme” means a detailed scheme agreed with the operator which sets out the measures to be taken to mitigate the impact of the development on the primary radars located at Cromer and Claxby and air traffic management operations of the Operator.

Ministry of Defence Surveillance Operation

32.—(1) No wind turbine generator forming part of the authorised development is permitted to rotate its rotor blades on its horizontal axis until the Secretary of State, having consulted with the Ministry of Defence, confirms satisfaction in writing that appropriate mitigation will be implemented and maintained for the life of the authorised development and that arrangements have

been put in place with the Ministry of Defence to ensure that the approved mitigation is implemented.

(2) For the purposes of this requirement—

“appropriate mitigation” means measures to prevent or remove any adverse effects which the authorised development will have on the air defence radar(s) at Remote Radar Head (RRH) Staxton Wold and Remote Radar Head (RRH) Neatishead, and the Ministry of Defence’s air surveillance and control operations;

“approved mitigation” means the detailed Radar Mitigation Scheme (RMS) that will set out the appropriate measures and timescales for implementation as agreed with the Ministry of Defence at the time the Secretary of State confirms satisfaction in writing in accordance with sub-paragraph (1); and

“Ministry of Defence” means the Ministry of Defence as represented by Defence Infrastructure Organisation – Safeguarding, St George’s House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY or any successor body.

(3) The undertaker must thereafter comply with all other obligations contained within the approved mitigation for the life of the authorised development.

SCHEDULE 2

Article 9

Streets subject to street works

<i>(1) Area</i>	<i>(2) Street subject to street works</i>
East Lindsey District Council	Roman Bank between points TR1 and TR2, as shown on sheet 1 of the streets plan.
East Lindsey District Council	Ember Lane between points TR3 and TR4, as shown on sheet 2 of the streets plan.
East Lindsey District Council	Langham Road between points TR5 and TR6, as shown on sheet 3 of the streets plan.
East Lindsey District Council	Lowgate Road between points TR7 and TR8, as shown on sheet 3 and 4 of the streets plan.
East Lindsey District Council	A52 between points TR9 and TR10, as shown on sheet 4 of the streets plan.
East Lindsey District Council	Listoff Lane between points TR11 and TR12, as shown on sheet 5 of the streets plan.
East Lindsey District Council	Sloothby High Lane between points TR13 and TR14, as shown on sheet 5 of the streets plan.
East Lindsey District Council	Path between points T13A and T14A, as shown on sheet 5 of the streets plan.
East Lindsey District Council	South Ings Lane between points TR15 and TR16, as shown on sheets 6 and 7 of the streets plan.
East Lindsey District Council	Marsh Lane between points TR17 and TR18, as shown on sheet 8 of the streets plan.
East Lindsey District Council	Ingoldmelis Road between points TR19 and TR20, as shown on sheet 9 of the streets plan.
East Lindsey District Council	Younger’s Lane between points TR21 and TR22, as shown on sheets 9 and 10 of the streets plan.
East Lindsey District Council	Skegness Road between points TR23 and TR24, as shown on sheets 10 and 11 of the streets plan.
East Lindsey District Council	Billgate Lane between points TR25 and TR26, as shown on sheet 11 of the streets plan.

East Lindsey District Council	Middlemarsh Road between points TR27 and TR28, as shown on sheets 11 and 12 of the streets plan,
East Lindsey District Council	Low Road between points TR29 and TR30, as shown on sheet 12 of the streets plan.
East Lindsey District Council	Pinchbeck Lane between points TR31 and TR32, as shown on sheet 13 of the streets plan.
East Lindsey District Council	Church Lane between points TR33 and TR34, as shown on sheet 14 of the streets plan.
East Lindsey District Council	Croft Lane between points TR35 and TR36, as shown on sheet 14 of the streets plan.
East Lindsey District Council	Burgh Road between points TR37 and TR38, as shown on sheet 14 of the streets plan.
East Lindsey District Council	Wainfleet Road between points TR39 and TR40, as shown on sheet 15 of the streets plan.
East Lindsey District Council	Brewster Lane between points TR41 and TR42, as shown on sheet 15 and 16 of the streets plan.
East Lindsey District Council	Collison Gate between points TR43 and TR44, as shown on sheet 16 of the streets plan.
East Lindsey District Council	Mill Lane between points TR45 and TR46, as shown on sheet 16 of the streets plan.
East Lindsey District Council	Mill Lane between points TR47 and TR48, as shown on sheet 16 of the streets plan.
East Lindsey District Council	Church Lane between points TR49 and TR50, as shown on sheet 16 and 17 of the streets plan.
East Lindsey District Council	Hall Gate (Track) between points TR49A and TR50A, as shown on sheet 17 of the streets plan.
East Lindsey District Council	Scald Gate between points TR51 and TR52, as shown on sheet 17 of the streets plan.
East Lindsey District Council	Burgh Road between points TR53 and TR54, as shown on sheet 18 of the streets plan.
East Lindsey District Council	Fodder Dike Bank between points TR55 and TR56, as shown on sheet 18 of the streets plan.
East Lindsey District Council	Cranberry Lane between points TR57 and TR58, as shown on sheets 18 and 19 of the streets plan.
East Lindsey District Council	Mill Hill between points TR59 and TR60, as shown on sheet 19 of the streets plan.
East Lindsey District Council	Small End Road between points TR61 and TR62, as shown on sheet 19 of the streets plan.
East Lindsey District Council	Skirmore Road between points TR63 and TR64, as shown on sheets 20 and 21 of the streets plan.
East Lindsey District Council	Patman's Lane between points TR65 and TR66, as shown on sheet 21 of the streets plan.
East Lindsey District Council	Ivery Lane between points TR67 and TR68, as shown on sheets 21 and 22 of the streets plan.
Boston Borough Council	Broad Gate between points TR69 and TR70, as shown on sheets 22 and 23 of the streets plan.
Boston Borough Council	Cragmire Lane between points TR71 and TR72, as shown on sheet 23 of the streets plan.
Boston Borough Council	Common Road between points TR73 and TR74, as shown on sheet 23 of the streets plan.
Boston Borough Council	Manor Lane between points TR75 and TR76, as

Boston Borough Council	shown on sheets 23 and 24 of the streets plan, Sea Dyke between points TR77 and TR78, as shown on sheet 24 of the streets plan.
Boston Borough Council	Church Road between points TR79 and TR80, as shown on sheet 25 of the streets plan.
Boston Borough Council	B1184 between points TR81 and TR82, as shown on sheet 25 of the streets plan.
Boston Borough Council	Cowbroads Lane between points TR83 and TR84, as shown on sheet 25 of the streets plan.
Boston Borough Council	Pode Lane between points TR85 and TR86, as shown on sheet 25 of the streets plan.
Boston Borough Council	Skipmarsh Lane between points TR87 and TR88, as shown on sheet 26 of the streets plan.
Boston Borough Council	Southfields between points TR89 and TR90, as shown on sheet 26 of the streets plan.
Boston Borough Council	Ings Drove between points TR91 and TR92, as shown on sheet 26 of the streets plan.
Boston Borough Council	Ings Road between points TR93 and TR94, as shown on sheet 27 of the streets plan.
Boston Borough Council	Boston Longs Hedges between points TR95 and TR96, as shown on sheets 27 and 28 of the streets plan,
Boston Borough Council	Lowfields Lane between points TR97 and TR98, as shown on sheet 28 of the streets plan.
Boston Borough Council	A52 between points TR97A and TR98A, as shown on sheets 29 and 30 of the streets plan,
Boston Borough Council	Foxhole Lane between points TR99 and TR100, as shown on sheet 30 of the streets plan.
Boston Borough Council	Butterwick Road between points TR101 and TR102, as shown on sheet 30 of the streets plan.
Boston Borough Council	Shore Road between points TR103 and TR104, as shown on sheet 31 of the streets plan.
Boston Borough Council	Church End Road between points TR105 and TR106, as shown on sheets 31 and 32 of the streets plan,
Boston Borough Council	Clampgate Road between points TR107 and TR108, as shown on sheets 31 and 32 of the streets plan,
Boston Borough Council	Grovefield Lane between points TR109 and TR110, as shown on sheet 32 of the streets plan.
Boston Borough Council	Grovefield Lane between points TR111 and TR112, as shown on sheets 32 and 33 of the streets plan.
Boston Borough Council	Cut End Road between points TR113 and TR114, as shown on sheet 33 of the streets plan.
Boston Borough Council	Wood Lane between points TR115 and TR116, as shown on sheet 33 of the streets plan.
Boston Borough Council	Track between points TR115A and TR116A, as shown on sheet 33 of the streets plan.
Boston Borough Council	Wyberton Road between points TR117 and TR118, as shown on sheets 34 and 35 of the

Boston Borough Council	streets plan. Frampton Roads between points TR119 and TR120, as shown on sheet 37 of the streets plan.
Boston Borough Council	Sandholme Lane between points TR121 and TR122, as shown on sheet 38 of the streets plan.
Boston Borough Council	Marsh Lane between points TR123 and TR124, as shown on sheet 39 of the streets plan.
Boston Borough Council	Marsh Road between points TR125 and TR126, as shown on sheets 39 and 40 of the streets plan.
Boston Borough Council	Wash Road between points TR127 and TR128, as shown on sheets 42 and 43 of the streets plan.
Boston Borough Council	A17 between points TR129 and TR130, as shown on sheet 43 of the streets plan.
Boston Borough Council	A17 between points TR129A and TR130A, as shown on sheet 43 of the streets plan.
South Holland District Council	Marsh Drove between points TR131 and TR132, as shown on sheets 47, 48 and 49 of the streets plan.
South Holland District Council	Marsh Road between points TR133 and TR134, as shown on sheets 49 and 50 of the streets plan.
East Lindsey District Council	Unnamed track between points OT1 and OT2, as shown on sheet 2 of the streets plan.
East Lindsey District Council	Unnamed track between points OT3 and OT4, as shown on sheets 1 and 2 of the streets plan.
East Lindsey District Council	Unnamed track between points OT5 and OT6, as shown on sheet 3 of the streets plan.
East Lindsey District Council	Unnamed track between points OT7 and OT8, as shown on sheets 3 and 4 of the streets plan.
East Lindsey District Council	Unnamed track between points OT9 and OT10, as shown on sheet 5 of the streets plan.
East Lindsey District Council	Unnamed track between points OT11 and OT12, as shown on sheet 5 of the streets plan.
East Lindsey District Council	Unnamed track between points OT13 and OT14, as shown on sheets 7 and 8 of the streets plan.
East Lindsey District Council	Unnamed track between points OT15 and OT16, as shown on sheets 8 and 9 of the streets plan.
East Lindsey District Council	Unnamed track between points OT17 and OT18, as shown on sheet 9 of the streets plan.
East Lindsey District Council	Unnamed track between points OT19 and OT20, as shown on sheets 9 and 10 of the streets plan.
East Lindsey District Council	Unnamed track between points OT21 and OT22, as shown on sheet 12 of the streets plan.
East Lindsey District Council	Unnamed track between points OT22 and OT22A, as shown on sheet 12 of the streets plan.
East Lindsey District Council	Gutheram Drove between points OT23 and OT24, as shown on sheets 13 and 14 of the

East Lindsey District Council	streets plan.
East Lindsey District Council	Unnamed track between points OT25 and OT26, as shown on sheet 13 of the streets plan.
East Lindsey District Council	Unnamed track between points OT27 and OT28, as shown on sheet 15 of the streets plan.
East Lindsey District Council	Unnamed track between points OT29 and OT30, as shown on sheet 15 of the streets plan.
Boston Borough Council	Unnamed track between points OT31 and OT32, as shown on sheet 24 of the streets plan.
Boston Borough Council	Unnamed track between points OT32 and OT33, as shown on sheet 24 of the streets plan.
Boston Borough Council	Unnamed track between points OT34 and OT35, as shown on sheet 33 of the streets plan.
Boston Borough Council	Unnamed track between points OT36 and OT37, as shown on sheet 33 of the streets plan.
Boston Borough Council	Unnamed track between points OT38 and OT39, as shown on sheets 33 and 34 of the streets plan.
Boston Borough Council	Scalp Road between points OT40 and OT41, as shown on sheet 34 of the streets plan.
Boston Borough Council	Unnamed track between points OT42 and OT43, as shown on sheets 34 and 35 of the streets plan.
Boston Borough Council	Unnamed track between points OT42 and OT42A, as shown on sheet 34 of the streets plan.
Boston Borough Council	Unnamed track between points OT44 and OT45, as shown on sheet 34 of the streets plan.
Boston Borough Council	Unnamed track between points OT46 and OT47, as shown on sheets 34 and 35 of the streets plan.
Boston Borough Council	Unnamed track between points OT48 and OT49, as shown on sheets 34 and 35 of the streets plan.
Boston Borough Council	Unnamed track between points OT50 and OT51, as shown on sheets 37 and 38 of the streets plan.
Boston Borough Council	Unnamed track between points OT52 and OT53, as shown on sheets 38 of the streets plan.
Boston Borough Council	Unnamed track between points OT54 and OT55, as shown on sheet 40 of the streets plan.
Boston Borough Council	Unnamed track between points OT56 and OT57, as shown on sheets 40 and 41 of the streets plan.
Boston Borough Council	Unnamed track between points OT58 and OT59, as shown on sheets 40 and 41 of the streets plan.
Boston Borough Council	Unnamed track between points OT60 and OT61, as shown on sheet 41 of the streets plan.
Boston Borough Council	Thompson's Lane between points OT62 and OT63, as shown on sheet 42 of the streets plan.
Boston Borough Council	Unnamed track between points OT64 and OT65, as shown on sheet 42 of the streets plan.
Boston Borough Council	Pullover Lane between points OT66 and OT67,

	as shown on sheets 42 and 43 of the streets plan.
Boston Borough Council	Unnamed track between points OT68 and OT69, as shown on sheet 43 of the streets plan.
Boston Borough Council	Smeeton's Lane between points OT70 and OT71, as shown on sheet 43 of the streets plan.
Boston Borough Council	Unnamed track between points OT72 and OT73, as shown on sheets 43 and 44 of the streets plan.
Boston Borough Council	Unnamed track between points OT74 and OT75, as shown on sheet 43 of the streets plan.
Boston Borough Council	Unnamed track between points OT76 and OT77, as shown on sheet 43 of the streets plan.
Boston Borough Council	Unnamed track between points OT78 and OT79, as shown on sheets 43 and 44 of the streets plan.
Boston Borough Council	Unnamed track between points OT80 and OT81, as shown on sheet 43 of the streets plan.
Boston Borough Council	Unnamed track between points OT82 and OT83, as shown on sheets 43 and 44 of the streets plan.
South Holland District Council	Unnamed track between points OT84 and OT85, as shown on sheet 45 of the streets plan.
Boston Borough Council	Unnamed track between points OT86 and OT87, as shown on sheet 45 of the streets plan.
South Holland District Council	Unnamed track between points OT88 and OT89, as shown on sheets 45, 47, 48 and 49 of the streets plan.
South Holland District Council	Unnamed track between points OT89 and OT90, as shown on sheets 47 and 48 of the streets plan.
South Holland District Council	Marsh Road between points OT91 and OT92, as shown on sheet 49 of the streets plan.
South Holland District Council	Unnamed track between points OT93 and OT94, as shown on sheet 48 of the streets plan.
South Holland District Council	Unnamed track between points OT95 and OT96, as shown on sheets 48 and 49 of the streets plan.
South Holland District Council	Unnamed track between points OT97 and OT98, as shown on sheets 46 and 47 of the streets plan.
South Holland District Council	Unnamed track between points OT101 and OT102, as shown on sheet 50 of the streets plan.
South Holland District Council	Unnamed track between points OT103 and OT104, as shown on sheets 50 and 51 of the streets plan.
South Holland District Council	Unnamed track between points OT105 and OT106, as shown on sheets 50 and 51 of the streets plan.
South Holland District Council	Unnamed track between points OT107 and OT108, as shown on sheet 51 of the streets plan.

SCHEDULE 3

Article 11

Public rights of way to be temporarily stopped up

<i>(1) Area</i>	<i>(2) Public right of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>	<i>(4) Temporary public right of way to be substituted</i>
East Lindsey District Council	Public Footpath (Hogs/58/2)	Approximately 193m of the existing Public Footpath, to be Closed – temporary diversion, reference Hogs/58/2, shown by pink line on sheets 3 and 4 of the public rights of way plan.	Approximately 131m diversion, shown by blue line on sheets 3 and 4 of the public rights of way plan.
East Lindsey District Council	Public Footpath, (Hogs/48/1)	Approximately 109m of the existing Public Footpath, to be Closed - temporary diversion, reference Hogs/48/1, shown by a pink line on sheets 5 and 6 of the public rights of way plan.	Approximately 147m diversion, shown by a blue line on sheets 5 and 6 of the public rights of way plan.
East Lindsey District Council	Public Footpath, (Crof/276/4)	Approximately 39m of the existing Public Footpath, to be Closed - temporary diversion, reference Crof/276/4, shown by a pink line and marked Crof/276/4, on sheet 14 of the public rights of way plan.	Approximately 21m diversion shown by a blue line on sheet 14 of the public rights of way plan.

SCHEDULE 4

Article 12

Streets to be temporarily stopped up

<i>(1) Area</i>	<i>(2) Street to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up, alteration or diversion</i>
East Lindsey District Council	Roman Bank	Approximately 329m of Roman Bank between points TR1 and TR2, as shown on sheet 1 of the streets plan.
East Lindsey District Council	Ember Lane	Approximately 123m of Ember Lane between points TR3 and TR4, as shown on sheet 2 of the streets plan.
East Lindsey District Council	Langham Road	Approximately 82m of Langham Road between points TR5 and TR6, as shown on

East Lindsey District Council	Lowgate Road	sheet 3 of the streets plan. Approximately 84m of Lowgate Road between points TR7 and TR8, as shown on sheets 3 and 4 of the streets plan.
East Lindsey District Council	A52	Approximately 90m of A52 between points TR9 and TR10, as shown on sheet 4 of the streets plan.
East Lindsey District Council	Listoff Lane	Approximately 150m of Listoff Lane between points TR11 and TR12, as shown on sheet 5 of the streets plan.
East Lindsey District Council	Sloothby High Lane	Approximately 80m of Sloothby High Lane between points TR13 and TR14, as shown on sheet 5 of the streets plan.
East Lindsey District Council	Path	Approximately 86m of path between points T13A and T14A, as shown on sheet 5 of the streets plan.
East Lindsey District Council	South Ings Lane	Approximately 93m of South Ings Lane between points TR15 and TR16, as shown on sheets 6 and 7 of the streets plan.
East Lindsey District Council	Marsh Lane	Approximately 82m of Marsh Lane between points TR17 and TR18, as shown on sheet 8 of the streets plan.
East Lindsey District Council	Ingoldmelis Road	Approximately 86m of Ingoldmelis Road between points TR19 and TR20, as shown on sheet 9 of the streets plan.
East Lindsey District Council	Younger's Lane	Approximately 106m of Younger's Lane between points TR21 and TR22, as shown on sheets 9 and 10 of the streets plan.
East Lindsey District Council	Skegness Road	Approximately 80m of Skegness Road between points TR23 and TR24, as shown on sheets 10 and 11 of the streets plan.
East Lindsey District Council	Billgate Lane	Approximately 80m of Billgate Lane between points TR25 and TR26, as shown on sheet 11 of the streets plan.
East Lindsey District Council	Middlemarsh Road	Approximately 113m of Middlemarsh Road between points TR27 and TR28, as shown on sheets 11 and 12 of the streets plan.

East Lindsey District Council	Low Road	Approximately 80m of Low Road between points TR29 and TR30, as shown on sheet 12 of the streets plan.
East Lindsey District Council	Pinchbeck Lane	Approximately 79m of Pinchbeck Lane between points TR31 and TR32, as shown on sheet 13 of the streets plan.
East Lindsey District Council	Church Lane	Approximately 80m of Church Lane between points TR33 and TR34, as shown on sheet 14 of the streets plan.
East Lindsey District Council	Croft Lane	Approximately 80m of Croft Lane between points TR35 and TR36, as shown on sheet 14 of the streets plan.
East Lindsey District Council	Burgh Road	Approximately 81m of Burgh Road between points TR37 and TR38, as shown on sheet 14 of the streets plan.
East Lindsey District Council	Wainfleet Road	Approximately 85m of Wainfleet Road between points TR39 and TR40, as shown on sheet 15 of the streets plan.
East Lindsey District Council	Brewster Lane	Approximately 125m of Brewster Lane between points TR41 and TR42, as shown on sheets 15 and 16 of the streets plan.
East Lindsey District Council	Collison Gate	Approximately 142m of Collison Gate between points TR43 and TR44, as shown on sheet 16 of the streets plan.
East Lindsey District Council	Mill Lane	Approximately 140m of Mill Lane between points TR45 and TR46, as shown on sheet 16 of the streets plan.
East Lindsey District Council	Mill Lane	Approximately 140m of Mill Lane between points TR47 and TR48, as shown on sheet 16 of the streets plan.
East Lindsey District Council	Church Lane	Approximately 111m of Church Lane between points TR49 and TR50, as shown on sheets 16 and 17 of the streets plan.
East Lindsey District Council	Hall Gate (Track)	Approximately 85m of Hall Gate (track) between points TR49A and TR50A, as shown on sheet 17 of the streets plan.
East Lindsey District Council	Scald Gate	Approximately 83m of Scald Gate between points TR51 and TR52, as shown on sheet 17 of the streets plan.

East Lindsey District Council	Burgh Road	Approximately 79m of Burgh Road between points TR53 and TR54, as shown on sheet 18 of the streets plan.
East Lindsey District Council	Fodder Dike Bank	Approximately 101m of Fodder Dike Bank between points TR55 and TR56, as shown on sheet 18 of the streets plan.
East Lindsey District Council	Cranberry Lane	Approximately 81m of Cranberry Lane between points TR57 and TR58, as shown on sheets 18 and 19 of the streets plan.
East Lindsey District Council	Mill Hill	Approximately 80m of Mill Hill between points TR59 and TR60, as shown on sheet 19 of the streets plan.
East Lindsey District Council	Small End Road	Approximately 91m of Small End Road between points TR61 and TR62, as shown on sheet 19 of the streets plan.
East Lindsey District Council	Skirmore Road	Approximately 80m of Skirmore Road between points TR63 and TR64, as shown on sheets 20 and 21 of the streets plan.
East Lindsey District Council	Patman's Lane	Approximately 81m of Patman's Lane between points TR65 and TR66, as shown on sheet 21 of the streets plan.
East Lindsey District Council	Ivery Lane	Approximately 81m of Ivery Lane between points TR67 and TR68, as shown on sheets 21 and 22 of the streets plan.
Boston Borough Council	Broad Gate	Approximately 80m of Broad Gate between points TR69 and TR70, as shown on sheets 22 and 23 of the streets plan.
Boston Borough Council	Cragmire Lane	Approximately 82m of Cragmire Lane between points TR71 and TR72, as shown on sheet 23 of the streets plan.
Boston Borough Council	Common Road	Approximately 101m of Common Road between points TR73 and TR74, as shown on sheet 23 of the streets plan.
Boston Borough Council	Manor Lane	Approximately 81m of Manor Lane between points TR75 and TR76, as shown on sheets 23 and 24 of the streets plan.
Boston Borough Council	Sea Dyke	Approximately 90m of Sea Dyke between points TR77 and TR78, as shown on sheet 24 of the streets plan.
Boston Borough Council	Church Road	Approximately 79m of Church

		Road between points TR79 and TR80, as shown on sheet 25 of the streets plan.
Boston Borough Council	B1184	Approximately 80m of B1184 between points TR81 and TR82, as shown on sheet 25 of the streets plan.
Boston Borough Council	Cowbroads Lane	Approximately 81m of Cowbroads Lane between points TR83 and TR84, as shown on sheet 25 of the streets plan.
Boston Borough Council	Pode Lane	Approximately 139m of Pode Lane between points TR85 and TR86, as shown on sheet 25 of the streets plan.
Boston Borough Council	Skipmarsh Lane	Approximately 80m of Skipmarsh Lane between points TR87 and TR88, as shown on sheet 26 of the streets plan.
Boston Borough Council	Southfields	Approximately 82m of Southfields between points TR89 and TR90, as shown on sheet 26 of the streets plan.
Boston Borough Council	Ings Drove	Approximately 80m of Ings Drove between points TR91 and TR92, as shown on sheet 26 of the streets plan.
Boston Borough Council	Ings Road	Approximately 100m of Ings Road between points TR93 and TR94, as shown on sheet 27 of the streets plan.
Boston Borough Council	Boston Longs Hedges	Approximately 107m of Boston Longs Hedges between points TR95 and TR96, as shown on sheets 27 and 28 of the streets plan.
Boston Borough Council	Lowfields Lane	Approximately 81m of Lowfields Lane between points TR97 and TR98, as shown on sheet 28 of the streets plan.
Boston Borough Council	A52	Approximately 81m of A52 between points TR97A and TR98A, as shown on sheet 29 and 30 of the streets plan.
Boston Borough Council	Foxhole Lane	Approximately 153m of Foxhole Lane between points TR99 and TR100, as shown on sheet 30 of the streets plan.
Boston Borough Council	Butterwick Road	Approximately 83m of Butterwick Road between points TR101 and TR102, as shown on sheet 30 of the streets plan.

Boston Borough Council	Shore Road	Approximately 80m of Shore Road between points TR103 and TR104, as shown on sheet 31 of the streets plan.
Boston Borough Council	Church End Road	Approximately 80m of Church End Road between points TR105 and TR106, as shown on sheets 31 and 32 of the streets plan,
Boston Borough Council	Clampgate Road	Approximately 81m of Clampgate Road between points TR107 and TR108, as shown on sheets 31 and 32 of the streets plan.
Boston Borough Council	Grovefield Lane	Approximately 116m of Grovefield Lane between points TR109 and TR110, as shown on sheet 32 of the streets plan.
Boston Borough Council	Grovefield Lane	Approximately 88m of Grovefield Lane between points TR111 and TR112, as shown on sheets 32 and 33 of the streets plan.
Boston Borough Council	Cut End Road	Approximately 80m of Cut End Road between points TR113 and TR114, as shown on sheet 33 of the streets plan.
Boston Borough Council	Wood Lane	Approximately 105m of Wood Lane between points TR115 and TR116, as shown on sheet 33 of the streets plan.
Boston Borough Council	Track	Approximately 249m of track between points TR115A and TR116A, as shown on sheet 33 of the streets plan.
Boston Borough Council	Wyberton Road	Approximately 81m of Wyberton Road between points TR117 and TR118, as shown on sheets 34 and 35 of the streets plan.
Boston Borough Council	Frampton Roads	Approximately 80m of Frampton Roads between points TR119 and TR120, as shown on sheet 37 of the streets plan.
Boston Borough Council	Sandholme Lane	Approximately 85m of Sandholme Lane between points TR121 and TR122, as shown on sheet 38 of the streets plan.
Boston Borough Council	Marsh Lane	Approximately 70m of Marsh Lane between points TR123 and TR124, as shown on sheet 39 of the streets plan.
Boston Borough Council	Marsh Road	Approximately 82m of Marsh

		Road between points TR125 and TR126, as shown on sheets 39 and 40 of the streets plan.
Boston Borough Council	Wash Road	Approximately 144m of Wash Road between points TR127 and TR128, as shown on sheets 42 and 43 of the streets plan.
Boston Borough Council	A17	Approximately 48 m of A17 between points TR129 and TR130, as shown on sheet 43 of the streets plan.
Boston Borough Council	A17	Approximately 80m of A17 between points TR129A and TR130A, as shown on sheet 43 of the streets plan.
South Holland District Council	Marsh Drove	Approximately 60m of Marsh Drove between points TR131 and TR132, as shown on sheets 47, 48 and 49 of the streets plan.
South Holland District Council	Marsh Road	Approximately 60m of Marsh Road between points TR133 and TR134, as shown on sheets 49 and 50 of the streets plan.
East Lindsey District Council	Track	Approximately 60m of track between points OT1 and OT2, as shown on sheet 2 of the streets plan.
East Lindsey District Council	Track	Approximately 576m of track between points OT3 and OT4, as shown on sheets 1 and 2 of the streets plan.
East Lindsey District Council	Track	Approximately 81m of track between points OT5 and OT6, as shown on sheet 3 of the streets plan.
East Lindsey District Council	Track	Approximately 409m of track between points OT7 and OT8, as shown on sheets 3 and 4 of the streets plan.
East Lindsey District Council	Track	Approximately 11m of track between points OT9 and OT10, as shown on sheet 5 of the streets plan.
East Lindsey District Council	Track	Approximately 83m of track between points OT11 and OT12, as shown on sheet 5 of the streets plan.
East Lindsey District Council	Track	Approximately 37m of track between points OT13 and OT14, as shown on sheets 7 and 8 of the streets plan.
East Lindsey District Council	Track	Approximately 244m of track

East Lindsey District Council	Track	between points OT15 and OT16, as shown on sheets 8 and 9 of the streets plan. Approximately 511m of track between points OT17 and OT18, as shown on sheet 9 of the streets plan.
East Lindsey District Council	Track	Approximately 81m of track between points OT19 and OT20, as shown on sheets 9 and 10 of the streets plan.
East Lindsey District Council	Unnamed	Approximately 325m of unnamed road between points OT21 and OT22, as shown on sheet 12 of the streets plan.
East Lindsey District Council	Track	Approximately 155m of track between points OT22 and OT22A, as shown on sheet 12 of the streets plan.
East Lindsey District Council	Gutheram Drove	Approximately 191m of Gutheram Drove between points OT23 and OT24, as shown on sheets 13 and 14 of the streets plan.
East Lindsey District Council	Track	Approximately 202m of track between points OT25 and OT26, as shown on sheet 13 of the streets plan.
East Lindsey District Council	Track	Approximately 227m of track between points OT27 and OT28, as shown on sheet 15 of the streets plan.
East Lindsey District Council	Track	Approximately 379m of track between points OT29 and OT30, as shown on sheet 15 of the streets plan.
Boston Borough Council	Track	Approximately 244m of track between points OT31 and OT32, as shown on sheet 24 of the streets plan.
Boston Borough Council	Track	Approximately 137m of track between points OT32 and OT33, as shown on sheet 24 of the streets plan.
Boston Borough Council	Track	Approximately 98m of track between points OT34 and OT35, as shown on sheet 33 of the streets plan.
Boston Borough Council	Unnamed	Approximately 147m of unnamed road between points OT36 and OT37, as shown on sheet 33 of the streets plan.
Boston Borough Council	Track	Approximately 98m of track between points OT38 and OT39, as shown on sheets 33 and 34 of the streets plan.

Boston Borough Council	Scalp Road	Approximately 234m of Scalp Road between points OT40 and OT41, as shown on sheet 34 of the streets plan.
Boston Borough Council	Track	Approximately 368m of track between points OT42 and OT43, as shown on sheets 34 and 35 of the streets plan.
Boston Borough Council	Track	Approximately 217m of track between points OT42 and OT42A, as shown on sheet 34 of the streets plan.
Boston Borough Council	Track	Approximately 132m of track between points OT44 and OT45, as shown on sheet 34 of the streets plan.
Boston Borough Council	Track	Approximately 143m of track between points OT46 and OT47, as shown on sheets 34 and 35 of the streets plan.
Boston Borough Council	Unnamed	Approximately 77m of unnamed road between points OT48 and OT49, as shown on sheets 34 and 35 of the streets plan.
Boston Borough Council	Unnamed	Approximately 95m of unnamed road between points OT50 and OT51, as shown on sheets 37 and 38 of the streets plan.
Boston Borough Council	Track	Approximately 167m of track between points OT52 and OT53, as shown on sheet 38 of the streets plan.
Boston Borough Council	Path	Approximately 112m of path between points OT54 and OT55, as shown on sheet 40 of the streets plan.
Boston Borough Council	Track	Approximately 563m of track between points OT56 and OT57, as shown on sheets 40 and 41 of the streets plan.
Boston Borough Council	Unnamed	Approximately 739m of unnamed road between points OT58 and OT59, as shown on sheets 40 and 41 of the streets plan.
Boston Borough Council	Track	Approximately 125m of track between points OT60 and OT61, as shown on sheet 41 of the streets plan.
Boston Borough Council	Thompson's Lane	Approximately 306m of Thompson's Lane between points OT62 and OT63, as shown on sheet 42 of the streets plan.

Boston Borough Council	Track	Approximately 233m of track between points OT64 and OT65, as shown on sheet 42 of the streets plan.
Boston Borough Council	Pullover Lane	Approximately 83m of Pullover Lane between points OT66 and OT67, as shown on sheets 42 and 43 of the streets plan.
Boston Borough Council	Track	Approximately 124m of track between points OT68 and OT69, as shown on sheet 43 of the streets plan.
Boston Borough Council	Smeeton's Lane	Approximately 107m of Smeeton's Lane between points OT70 and OT71, as shown on sheet 43 of the streets plan.
Boston Borough Council	Unnamed	Approximately 1664m of unnamed road between points OT72 and OT73, as shown on sheets 43 and 44 of the streets plan.
Boston Borough Council	Track	Approximately 45m of track between points OT74 and OT75, as shown on sheet 43 of the streets plan.
Boston Borough Council	Track	Approximately 26m of track between points OT76 and OT77, as shown on sheet 43 of the streets plan.
Boston Borough Council	Unnamed	Approximately 80m of unnamed road between points OT78 and OT79, as shown on sheets 43 and 44 of the streets plan.
Boston Borough Council	Track	Approximately 59m of track between points OT80 and OT81, as shown on sheet 43 of the streets plan.
Boston Borough Council	Unnamed	Approximately 1920m of unnamed road between points OT82 and OT83, as shown on sheet 43 and 44 of the streets plan.
South Holland District Council	Track	Approximately 331m of track between points OT84 and OT85, as shown on sheet 45 of the streets plan.
Boston Borough Council	Track	Approximately 205m of track between points OT86 and OT87, as shown on sheet 45 of the streets plan.
South Holland District Council	Unnamed	Approximately 789m of unnamed road between points OT88 and OT89, as shown on

South Holland District Council	Unnamed	sheets 45, 47, 48 and 49 of the streets plan. Approximately 1387m of unnamed road between points OT89 and OT90, as shown on sheets 47 and 48 of the streets plan.
South Holland District Council	Marsh Road	Approximately 444m of Marsh Road between points OT91 and OT92, as shown on sheet 49 of the streets plan.
South Holland District Council	Unnamed	Approximately 388m of unnamed road between points OT93 and OT94, as shown on sheet 48 of the streets plan.
South Holland District Council	Unnamed	Approximately 140m of unnamed road between points OT95 and OT96, as shown on sheets 48 and 49 of the streets plan.
South Holland District Council	Track	Approximately 627m of track between points OT97 and OT98, as shown on sheets 46 and 47 of the streets plan.
South Holland District Council	Unnamed	Approximately 89m of unnamed road between points OT101 and OT102, as shown on sheet 50 of the streets plan.
South Holland District Council	Track	Approximately 287m of track between points OT103 and OT104, as shown on sheets 50 and 51 of the streets plan.
South Holland District Council	Unnamed	Approximately 1953m of unnamed road between points OT105 and OT106, as shown on sheets 50 and 51 of the streets plan.
South Holland District Council	Track	Approximately 260m of track between points OT107 and OT108, as shown on sheet 51 of the streets plan.

SCHEDULE 5

Article 13

Access to works

<i>(1) Area</i>	<i>(2) Description of access</i>
East Lindsey District Council	Construction Access Point to the south from Roman Bank and marked at point AC-01 on sheet 1 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the north from A52 West of Hogsthorpe and marked at point AC-02 on sheet 4 of 51 of the access to works plan.

East Lindsey District Council	Construction Access Point to the south from A52 West of Hogsthorpe and marked at point AC-03 on sheet 4 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the north from Listoft Lane and marked at point AC-04 on sheet 5 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the south from Listoft Lane and marked at point AC-05 on sheet 5 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the north from Sloothby High Lane and marked at point AC-06 on sheet 5 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the south from Sloothby High Lane and marked at point AC-07 on sheet 5 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the north from South Ings Lane and marked at point AC-08 on sheets 6 and 7 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the south from South Ings Lane and marked at point AC-09 on sheets 6 and 7 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the north from Marsh Lane and marked at point AC-10 on sheet 8 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the south from Marsh Lane and marked at point AC-11 on sheets 7 and 8 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the north from Younger's Lane and marked at point AC-11B on sheets 9 and 10 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the North from A158 Skegness Road and marked at point AC-12 on sheets 10 and 11 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the South from A158 Skegness Road and marked at point AC-13 on sheets 10 and 11 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the North from Low Road and marked at point AC-14 on sheets 12 and 13 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the South from A52 Croft Bank and marked at point AC-15 on sheet 13 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the north from Church Lane and marked at point AC-16 on sheet 14 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the south from Church Lane and marked at point AC-17 on sheet 14 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the South from Wainfleet Road and marked at point AC-18 on sheet 15 of 51 of the access to works plan.

East Lindsey District Council	Construction Access Point to the North from Wainfleet Road and marked at point AC-19 on sheet 15 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the North from Brewster Lane and marked at point AC-20 on sheets 15 and 16 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the South from Brewster Lane and marked at point AC-21 on sheets 15 and 16 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the North from Collision Gate and marked at point AC-22 on sheet 16 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the South from Collision Gate and marked at point AC-23 on sheet 16 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the North from Mill Lane and marked at point AC-24 on sheet 16 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the North from Scaldgate and marked at point AC-25 on sheet 17 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the South from Scaldgate and marked at point AC-26 on sheet 17 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the North from Fen Bank and marked at point AC-27 on sheet 18 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the South from Fen Bank and marked at point AC-28 on sheet 18 of 51 of the access to works plan.
East Lindsey District Council	Construction Access Point to the North from Howgarth Lane and marked at point AC-29 on sheet 20 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the North from Common Road and marked at point AC-30 on sheet 23 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the South from Common Road and marked at point AC-31 on sheet 23 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the North from Ings Road and marked at point AC-32 on sheet 27 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the South from Ings Road and marked at point AC-33 on sheet 27 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the North from A52 and marked at point AC-34 on sheets 29 and 30 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the South from A52 and marked at point AC-35 on sheets 29 and 30 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the North from Cut End Road and marked at point AC-36 on sheet 33 of 51 of the access to works plan.

Boston Borough Council	Construction Access Point to the South from Cut End Road and marked at point AC-37 on sheet 33 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the South from Pinfold Lane and marked at point AC-38 on sheet 33 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the North from Millfields Lane East and marked at point AC-39 on sheet 36 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the North from Wyberton Roads and marked at point AC-40 on sheets 34 and 35 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the South from Wyberton Roads and marked at point AC-41 on sheets 34 and 35 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the North from Marsh Road and marked at point AC-42 on sheets 39 and 40 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the South from Marsh Road and marked at point AC-43 on sheets 39 and 40 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the North from Cravens Lane and marked at point AC-44 on sheet 42 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the North from Wash Road and marked at point AC-45 on sheets 42 and 43 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the South from Wash Road and marked at point AC-46 on sheets 42 and 43 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the South from Surfleet Bank (A17) and marked at point AC-47 on sheet 43 of 51 of the access to works plan.
South Holland District Council	Construction Access Point to the North from Surfleet Bank (A16) and marked at point AC-48 on sheet 47 of 51 of the access to works plan.
South Holland District Council	Construction Access Point to the North from Marsh Road and marked at point AC-49 on sheets 49 and 50 of 51 of the access to works plan.
South Holland District Council	Construction Access Point to the South from Marsh Road and marked at point AC-50 on sheets 49 and 50 of 51 of the access to works plan.
Boston Borough Council	Construction Access Point to the South from A17 and marked at point AC-51 on sheet 43 of 51 of the access to works plan

Boston Borough Council

Construction Access Point to the South from A17 and marked at point AC-52 on sheet 43 of 51 of the access to works plan

South Holland District Council

Construction Access Point to the South from Marsh Road and marked at point AC-53 on sheet 49 of 51 of the access to works plan

SCHEDULE 6

Traffic regulation

Article 16

PART 1

East Lindsey District Council

<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
Roman Bank	Approximately 493m of road between points TRO1A and TRO2A as shown on sheet 1 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Ember Lane	Approximately 400m of road between points TRO1 and TRO2 as shown on sheet 2 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Langham Road	Approximately 400m of road between points TRO3 and TRO4 as shown on sheet 3 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Lowgate Road	Approximately 400m of road between points TRO5 and TRO6 as shown on sheets 3 and 4 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday.

A52 (Hogsthorpe)	Approximately 450m of road between points TRO7A and TRO8A as shown on sheet 4 of the traffic regulation order plan.	Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project. Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Listoff Lane	Approximately 400m of road between points TRO7 and TRO8 as shown on sheet 5 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Sloothby High Lane	Approximately 530m of road between points TRO9 and TRO10 as shown on sheet 5 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Path	Approximately 86m of road between points TRO9A and TRO10A as shown on sheet 5 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
South Ings Lane	Approximately 400m of road between points TRO11 and TRO12 as shown on sheet 7 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to

Marsh Lane	Approximately 662m of road between points TRO13 and TRO14 as shown on sheets 7 and 8 of the traffic regulation order plan.	30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project. Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Ingoldmells Road	Approximately 470m of road between points TRO15 and TRO16 as shown on sheet 9 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Younger's Lane	Approximately 400m of road between points TRO17 and TRO18 as shown on sheets 9 and 10 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Skegness Road (A158)	Approximately 541m of road between points TRO19 and TRO20 as shown on sheet 11 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 40mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Billgate Lane	Approximately 400m of road between points TRO21 and TRO22 as shown on sheet 11 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed

Middlemarsh Road	Approximately 400m of road between points TRO23 and TRO24 as shown on sheet 12 of the traffic regulation order plan.	agreed by the traffic authority, for the duration of the construction of the authorised project. Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Low Road	Approximately 400m of road between points TRO25 and TRO26 as shown on sheet 12 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Church Lane	Approximately 488m of road between points TRO27 and TRO28 as shown on sheet 14 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
A52 (Croft)	Approximately 200m of road between points TRO29 and TRO30 as shown on sheet 13 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 40mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Wainfleet Road (B1195)	Approximately 826m of road between points TRO31 and TRO32 as shown on sheet 15 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority,

Brewster Lane	Approximately 795m of road between points TRO33 and TRO34 as shown on sheet 16 of the traffic regulation order plan.	for the duration of the construction of the authorised project. Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Collison Gate	Approximately 472m of road between points TRO35 and TRO36 as shown on sheet 16 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Mill Lane	Approximately 429m of road between points TRO37 and TRO38 as shown on sheet 16 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Church Lane	Approximately 400m of road between points TRO39 and TRO40 as shown on sheet 17 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Hall Gate (Track)	Approximately 85m of road between points TRO39A and TRO40A as shown on sheet 17 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the

Scald Gate	Approximately 401m of road between points TRO41 and TRO42 as shown on sheet 17 of the traffic regulation order plan.	construction of the authorised project. Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Burgh Road	Approximately 500m of road between points TRO43 and TRO44 as shown on sheet 18 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Fen Bank (Fodder Dike)	Approximately 400m of road between points TRO45 and TRO46 as shown on sheet 18 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Cranberry Lane	Approximately 400m of road between points TRO47 and TRO48 as shown on sheet 19 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Mill Hill	Approximately 400m of road between points TRO49 and TRO50 as shown on sheet 19 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.

Howgarth Lane	Approximately 400m of road between points TRO51 and TRO52 as shown on sheet 20 of the traffic regulation order plan.	project. Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Skirmore Road	Approximately 200m of road between points TRO51A and TRO52A as shown on sheet 20 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Skirmore Road	Approximately 400m of road between points TRO53 and TRO54 as shown on sheet 20 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Patman's Lane	Approximately 400m of road between points TRO55 and TRO56 as shown on sheet 21 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Ivery Lane	Approximately 400m of road between points TRO57 and TRO58 as shown on sheets 21 and 22 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.

Broad Gate	Approximately 400m of road between points TRO59 and TRO60 as shown on sheet 23 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Cragmire Lane	Approximately 400m of road between points TRO61 and TRO62 as shown on sheet 23 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Common Road	Approximately 400m of road between points TRO63 and TRO64 as shown on sheet 23 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Manor Lane	Approximately 460m of road between points TRO65 and TRO66 as shown on sheet 24 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Sea Dyke	Approximately 390m of road between points TRO67 and TRO68 as shown on sheet 24 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Church Road	Approximately 500m of road	Prohibition of vehicle access at

	between points TRO69 and TRO70 as shown on sheet 25 of the traffic regulation order plan.	any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
B1184	Approximately 400m of road between points TRO71 and TRO72 as shown on sheet 25 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Cowbroads Lane	Approximately 400m of road between points TRO73 and TRO74 as shown on sheet 25 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Pode Lane	Approximately 408m of road between points TRO75 and TRO76 as shown on sheet 25 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Skipmarsh Lane	Approximately 400m of road between points TRO77 and TRO78 as shown on sheet 26 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Southfields	Approximately 400m of road between points TRO79 and	Prohibition of vehicle access at any time.

	TRO80 as shown on sheet 26 of the traffic regulation order plan.	No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Ings Drove	Approximately 400m of road between points TRO81 and TRO82 as shown on sheet 26 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Ings Road	Approximately 400m of road between points TRO83 and TRO84 as shown on sheet 27 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Boston Longs Hedges	Approximately 400m of road between points TRO85 and TRO86 as shown on sheet 27 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Lowfields Lane	Approximately 448m of road between points TRO87 and TRO88 as shown on sheet 28 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
A52 (Butterwick)	Approximately 400m of road between points TRO89 and TRO90 as shown on sheet 30	Prohibition of vehicle access at any time. No waiting restriction between

	of the traffic regulation order plan.	7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 40mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Foxhole Lane	Approximately 400m of road between points TRO91 and TRO92 as shown on sheet 30 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Butterwick Road	Approximately 400m of road between points TRO93 and TRO94 as shown on sheet 30 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Shore Road	Approximately 396m of road between points TRO95 and TRO96 as shown on sheet 31 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Church End Road	Approximately 400m of road between points TRO97 and TRO98 as shown on sheet 31 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Clampgate Road	Approximately 400m of road between points TRO99 and TRO100 as shown on sheet 32 of the traffic regulation order	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on

	plan.	Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Grovefield Lane	Approximately 400m of road between points TRO101 and TRO102 as shown on sheet 32 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Grovefield Lane	Approximately 550m of road between points TRO103 and TRO104 as shown on sheets 32 and 33 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Pinfold Lane	Approximately 400m of road between points TRO105 and TRO106 as shown on sheet 33 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Cut End Road	Approximately 400m of road between points TRO107 and TRO108 as shown on sheet 33 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Wood Lane	Approximately 382m of road between points TRO109 and TRO110 as shown on sheet 33 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday.

Wyberton Road	Approximately 587m of road between points TRO111 and TRO112 as shown on sheet 35 of the traffic regulation order plan.	Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project. Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Frampton Roads	Approximately 400m of road between points TRO113 and TRO114 as shown on sheet 37 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Millfield Lane East	Approximately 400m of road between points TRO115 and TRO116 as shown on sheet 36 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Sandholme Lane	Approximately 400m of road between points TRO117 and TRO118 as shown on sheet 38 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Marsh Lane	Approximately 79m of road between points TRO117A and TRO118A as shown on sheet 39 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to

Marsh Road	Approximately 400m of road between points TRO119 and TRO120 as shown on sheet 39 of the traffic regulation order plan.	30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project. Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Wash Road	Approximately 400m of road between points TRO121 and TRO122 as shown on sheets 42 and 43 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.

South Holland District Council

<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
Surfleet Bank	Approximately 250m of road between points TRO127 and TRO128 as shown on sheet 47 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Marsh Drove	Approximately 400m of road between points TRO123 and TRO124 as shown on sheets 48 and 49 of the traffic regulation order plan.	Prohibition of vehicle access at any time. No waiting restriction between 7.00am and 7.00pm on Monday to Sunday. Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.
Marsh Road	Approximately 400m of road between points TRO125 and	Prohibition of vehicle access at any time.

TRO126 as shown on sheets 49 and 50 of the traffic regulation order plan.

No waiting restriction between 7.00am and 7.00pm on Monday to Sunday.
Speed limit to be reduced to 30mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.

PART 2

South Holland District Council

<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
A16 (Surfleet Bank junction)	Approximately 400m of road between points TRO129 and TRO 130 as shown on sheet 47 of the traffic regulation order plan.	Speed limit to be reduced to 40mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.

Boston Borough Council

<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
A17 Fosdyke Bridge	Approximately 650m of road between points TRO131 and TRO 132 as shown on sheet 43 of the traffic regulation order plan.	Speed limit to be reduced to 40mph, or to such other speed agreed by the traffic authority, for the duration of the construction of the authorised project.

SCHEDULE 7

Article 22

Land in which only new rights etc. may be acquired

<i>(1) Number of land shown on land plan</i>	<i>(2) Purpose for which rights may be acquired</i>
01-001, 01-002	A. All rights and restrictions necessary for the undertaker and/or those authorised by the undertaker— 1. to install the cables by the use of directional drilling or other trenchless techniques only; 2. to retain and use the cables for the purposes of the transmission of electricity and telecommunications; 3. to benefit from continuous vertical and lateral support for the cables; B. A restrictive covenant over the land for the benefit of the remainder of the order land to— (a) prevent anything being done in or upon the land or any part thereof for the purposes of— (i) the construction of any buildings; or

- (ii) the hard surfacing of the land;
- (b) prevent the planting of any trees or shrubs on the land without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, or shrubs would not cause damage to the relevant part of the authorised development nor make it materially more difficult to maintain or to access the relevant part of the authorised development);
- (c) prevent the carrying out of any excavations or works or agricultural practices to a depth greater than 0.75 metre from the surface of the land, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed) provided that (for the avoidance of doubt)—
 - (i) ordinary agricultural practices including but not limited to acts of cultivation including soil preparation, ploughing and sub-soiling, not exceeding 0.75 metre in depth from the surface of the land, do not require the consent of the undertaker; and
 - (ii) flushing of land drainage systems, maintenance of outfalls and culverts of land drainage systems, clearance of vegetation (by use of machinery or by hand) and the operation of existing land drainage systems do not require the consent of the undertaker provided that no excavations take place to a depth greater than 0.75 metre.

01-004, 01-005, 01-006, 01-007, 01-008, 01-009

A. All rights and restrictions necessary for the undertaker and/or those authorised by the undertaker—

1. to install the cables by the use of directional drilling or other trenchless techniques only;
2. to retain and use the cables for the purposes of the transmission of electricity and telecommunications;
3. to benefit from continuous vertical and lateral support for the cables;

B. A restrictive covenant over the land for the benefit of the remainder of the order land to—

- (a) prevent anything being done in or upon the land or any part thereof for the purposes of—
 - (i) the construction of any buildings; or
 - (ii) the hard surfacing of the land;
- (b) prevent the planting of any trees or shrubs on the land without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, or shrubs would not cause damage to the relevant part of the authorised development nor make it materially more difficult to maintain or to access the relevant

part of the authorised development);

- (c) prevent the carrying out of any excavations or works or agricultural practices to a depth greater than 0.75 metre from the surface of the land, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed, with consent for trench digging requests relating to waterlogging to be determined within 24 hours, if the proposed activity would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development) provided that (for the avoidance of doubt)—

(i) ordinary agricultural practices including but not limited to acts of cultivation including soil preparation, ploughing and sub-soiling, not exceeding 0.75 metre in depth from the surface of the land, do not require the consent of the undertaker; and

(ii) flushing of land drainage systems, maintenance of outfalls and culverts of land drainage systems, clearance of vegetation (by use of machinery or by hand) and the operation of existing land drainage systems do not require the consent of the undertaker provided that no excavations take place to a depth greater than 0.75 metre.

01-010, 01-013, 01-014, 01-015, 01-016

A. All rights and restrictions necessary for the undertaker and/or those authorised by the undertaker to enter onto, pass and repass and remain on the land with or without all necessary plant, vehicles, machinery, materials, drilling fluids, apparatus, temporary structures and equipment and

1 the right to install the cables by way of (but not limited to) digging trenches, the use of directional drilling, auger boring, thrust boring, micro tunnelling or pipe ramming or other similar trenchless techniques;

2. the right to retain and use the cables and jointing installations for the purposes of the transmission of electricity and telecommunications;

3. the right to benefit from continuous vertical and lateral support for the cables and jointing installations;

4. the right to benefit from continuous vertical and lateral support for the pipes, cables, conduits, service media and apparatus installed in, under, or over the land;

5. the right to carry out terrestrial work activities;

6. the right to access adjoining land and highway;

7. the right to place and use plant, vehicles,

machinery, materials, drilling fluids, apparatus, equipment and temporary structures on and within the land;

8. the right to remove and discharge water from the land;

9. the right to remove, store and stockpile materials (including excavated material) within the land;

10. the right to retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the land, adjoining land and highway;

11. the right to erect temporary signage and provide measures for the benefit of public and personnel safety;

12. the right to fell, prune, cut, coppice, alter, lop, uproot and replant trees, shrubs and hedges, and remove roots of trees, shrubs and hedges;

13. the right to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant trees, shrubs and landscaping;

14. the right to install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation and/or enhancement works;

15. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove pipes, cables, conduits, service media or apparatus that are used for the purposes of transmitting or distributing electricity, communications, gas, oil, water supply, sewerage and drainage (including the pipes, cables, conduits, service media or apparatus of statutory undertakers);

16. the right to remove archaeological artefacts where they would prevent or cause it to be materially more difficult to undertake terrestrial work activities or where leaving such archaeological artefacts in situ would materially increase the cost of the terrestrial work activities;

17. the right to remove fences, hedges, gates or other barriers during any period during which terrestrial work activities are being undertaken (subject to the prior erection of any temporary stock proof fencing as is reasonably required) and the replacement, replanting or re-instatement of fences, hedges or other barriers;

18. the right to carry out surveys including for site investigation and environmental surveys (including without prejudice to the generality of the foregoing, topographic, drainage, archaeological, geotechnical, geoenvironmental, ecological and ground stability site investigations and surveys), making of

boreholes, trial pits and archaeological trenches and field stripping, auger hole sampling and the taking of soil and other samples;

19. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove cable marker posts to identify the location of the cables as required for routine integrity testing;

20. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary access roads, hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram;

21. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove public and private drains, watercourses, sewers, ponds or culverts, and to drain into and manage waterflows in any public and private drains, watercourses, sewers, ponds or culverts including (but not limited to) by way of damming and overpumping;

22. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove supporting or protective structures (including the bridging over of or protection of the apparatus of the statutory undertakers);

23. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary haul roads;

24. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary welfare facilities (including but not limited to portakabins, portaloos and welfare equipment);

25. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove fencing, gates, walls, barriers or other means of enclosure;

B. A restrictive covenant over the land for the benefit of the remainder of the order land to—

(a) prevent anything being done in or upon the

land or any part thereof for the purposes of—

- (i) the construction of any buildings; or
 - (ii) the hard surfacing of the land;
- (b) prevent the planting of any trees or shrubs on the land without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, or shrubs would not cause damage to the relevant part of the authorised development nor make it materially more difficult to maintain or to access the relevant part of the authorised development);
- (c) prevent the carrying out of any excavations or works or agricultural practices to a depth greater than 0.75 metre from the surface of the land, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed, with consent for trench digging requests relating to waterlogging to be determined within 24 hours, if the proposed activity would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development) provided that (for the avoidance of doubt)—
- (i) ordinary agricultural practices including but not limited to acts of cultivation including soil preparation, ploughing and sub-soiling, not exceeding 0.75 metre in depth from the surface of the land, do not require the consent of the undertaker; and
 - (ii) flushing of land drainage systems, maintenance of outfalls and culverts of land drainage systems, clearance of vegetation (by use of machinery or by hand) and the operation of existing land drainage systems do not require the consent of the undertaker provided that no excavations take place to a depth greater than 0.75 metre.

01-017, 01-017a, 01-018, 02-006, 02-007, 02-008, 02-009, 02-010, 02-011, 02-012, 02-013, 03-008, 03-009, 03-010, 03-013, 03-015, 03-016, 03-017, 03-018, 03-021, 03-022, 03-025, 03-026, 03-028, 03-029, 03-030, 04-004, 04-006, 04-011, 04-012, 04-016, 04-017, 04-018, 04-019, 04-020, 04-021, 04-023, 05-002, 05-003, 05-004, 05-006, 05-007, 05-008, 05-009, 05-010, 05-011, 05-014, 05-015, 05-016, 05-017, 05-018, 05-021, 06-001, 06-002, 06-005, 06-007, 06-008, 06-010, 06-012, 06-017, 06-018, 06-019, 06-021,

- A. All rights and restrictions necessary for the undertaker and/or those authorised by the undertaker to enter onto, pass and repass and remain on the land with or without all necessary plant, vehicles, machinery, materials, drilling fluids, apparatus, temporary structures and equipment and
1. the right to install the cables by way of (but not limited to) digging trenches, the use of directional drilling, auger boring, thrust boring, micro tunnelling or pipe ramming or other similar trenchless techniques;
 2. the right to retain and use the cables and jointing installations for the purposes of the transmission of electricity and telecommunications;
 3. the right to benefit from continuous vertical and

07-003, 07-005, 07-006, 07-007, 08-004, 08-005, 08-006, 08-007, 08-013, 08-014, 08-015, 08-016, 09-002, 09-003, 09-004, 09-004a, 09-004b, 09-006, 09-011, 09-018, 09-018a, 09-022, 10-002, 10-004, 10-005, 10-006, 10-011, 10-012, 10-016, 10-017, 10-018, 11-003, 11-006, 11-007, 11-008, 11-010, 11-012, 11-015, 11-016, 11-017, 11-018, 11-019, 11-020, 11-021, 11-022, 11-023, 12-006, 12-007, 12-008, 12-009, 12-010, 12-012, 12-013, 12-018, 12-019, 12-020, 13-001, 13-002, 13-003, 13-004, 13-010, 13-011, 13-018, 13-019, 13-020, 13-021, 14-004, 14-005, 14-006, 14-007, 14-008, 14-009, 14-011, 14-012, 14-013, 14-014, 14-015, 15-004, 15-006, 15-007, 15-008, 15-009, 15-010, 15-011, 15-012, 15-013, 15-015, 15-016, 15-041, 15-042, 15-043, 15-044, 15-046, 15-047, 15-048, 15-049, 15-050, 15-053, 15-054, 15-055, 15-056, 15-057, 16-003, 16-004, 16-005, 16-006, 16-007, 16-009, 16-010, 16-011, 16-012, 16-013, 16-014, 16-015, 16-016, 16-020, 16-021, 16-022, 16-023, 16-024, 16-025, 16-027, 16-029, 16-030, 16-031, 17-001, 17-002, 17-003, 17-006, 17-007, 17-008, 17-009, 17-010, 17-011, 17-012, 17-013, 17-014, 17-015, 17-016, 17-018, 17-021, 17-022, 17-023, 17-024, 17-026, 17-027, 17-028, 17-029, 17-030, 17-034, 17-035, 18-001, 18-002, 18-003, 18-004, 18-005, 18-006, 18-007, 18-009, 18-010, 18-011, 18-013, 18-014, 18-016, 18-017, 18-018, 18-019, 18-021, 18-023, 18-024, 18-025, 18-026, 18-028, 18-030, 18-033, 18-034, 18-037, 18-038, 19-001, 19-002, 19-003, 19-004, 19-006, 19-008, 19-009, 19-010, 19-011, 19-012, 19-013, 19-014, 19-015, 19-016, 19-017, 19-018, 19-019, 19-020, 19-021, 19-022, 19-024, 19-024a, 19-025, 20-004, 20-005, 20-006, 20-008, 21-003, 21-004, 21-005, 21-006, 21-008, 21-009, 21-011, 22-004, 22-005, 22-009, 22-011, 22-012, 22-013, 22-018, 22-021, 22-022, 22-023, 22-026, 22-027, 22-028, 22-031, 22-032, 23-001, 23-002, 23-005, 23-008, 23-009, 23-010, 23-011, 23-012, 23-013, 23-015, 23-016, 23-019, 23-020, 23-021, 23-022, 23-024, 23-026, 23-027, 23-030, 23-032, 23-033, 23-034, 24-002, 24-003, 24-005, 24-010, 24-013, 25-001, 25-

- lateral support for the cables and jointing installations;
4. the right to benefit from continuous vertical and lateral support for the pipes, cables, conduits, service media and apparatus installed in, under, or over the land;
 5. the right to carry out terrestrial work activities;
 6. the right to access adjoining land and highway;
 7. the right to place and use plant, vehicles, machinery, materials, drilling fluids, apparatus, equipment and temporary structures on and within the land;
 8. the right to remove and discharge water from the land;
 9. the right to remove, store and stockpile materials (including excavated material) within the land;
 10. the right to retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the land, adjoining land and highway;
 11. the right to erect temporary signage and provide measures for the benefit of public and personnel safety;
 12. the right to fell, prune, cut, coppice, alter, lop, uproot and replant trees, shrubs and hedges, and remove roots of trees, shrubs and hedges;
 13. the right to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant trees, shrubs and landscaping;
 14. the right to install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation and/or enhancement works;
 15. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove pipes, cables, conduits, service media or apparatus that are used for the purposes of transmitting or distributing electricity, communications, gas, oil, water supply, sewerage and drainage (including the pipes, cables, conduits, service media or apparatus of statutory undertakers);
 16. the right to remove archaeological artefacts where they would prevent or cause it to be materially more difficult to undertake terrestrial work activities or where leaving such archaeological artefacts in situ would materially increase the cost of the terrestrial work activities;
 17. the right to remove fences, hedges, gates or other barriers during any period during which terrestrial work activities are being undertaken (subject to the prior erection of any temporary stock proof fencing as is reasonably required) and the replacement, replanting or re-instatement of fences, hedges or other barriers;
 18. the right to carry out surveys including for site

002, 25-003, 25-004, 25-005, 25-006, 25-007, 25-008, 25-009, 25-010, 25-011, 25-012, 25-013, 25-014, 25-017, 25-018, 25-019, 25-020, 25-021, 25-022, 25-024, 25-025, 25-026, 25-027, 25-030, 25-031, 25-032, 25-033, 26-003, 26-003a, 26-005, 26-005a, 26-006, 26-007, 26-008, 26-009, 26-009a, 26-009b, 26-011, 26-012, 26-013, 26-014, 26-016, 26-017, 26-018, 26-022, 26-023, 26-024, 27-001, 27-002, 27-005, 27-005a, 27-005b, 27-006, 27-007, 27-008, 27-009, 27-010, 27-011, 27-015, 27-019, 27-021, 27-023, 27-024, 27-027, 27-030, 28-001, 28-002, 28-003, 28-006, 28-007, 28-007a, 28-011, 28-012, 28-014, 28-016, 28-017, 28-018, 28-019, 29-004, 29-005, 29-008, 29-009, 29-010, 29-013, 30-002, 30-005, 30-006, 30-007, 30-008, 30-009, 30-010, 30-013, 30-014, 30-015, 30-016, 30-017, 30-020, 30-021, 30-022, 30-023, 30-024, 31-001, 31-002, 31-003, 31-004, 31-005, 31-006, 31-007, 31-008, 31-009, 31-010, 32-003, 32-004, 32-004a, 32-005, 32-006, 32-007, 32-008, 32-009, 32-010, 32-011, 32-014, 32-015, 32-016, 32-017, 32-018, 32-019, 32-025, 32-026, 33-001, 33-002, 33-003, 33-004, 33-005, 33-008, 33-009, 33-010, 33-012, 33-013, 33-014, 33-015, 33-016, 33-026, 33-027, 33-028, 33-029, 33-035, 33-036, 33-037, 33-038, 33-038a, 33-039, 33-040, 34-003, 34-004, 34-005, 34-006, 34-007, 34-014, 34-015, 34-016, 34-018, 34-019, 34-020, 34-023, 37-001, 37-002, 37-003, 37-004, 37-009, 37-011, 37-012, 38-005, 38-006, 38-007, 38-008, 39-001, 39-002, 39-003, 39-004, 39-005, 39-006, 39-007, 39-008, 39-009, 39-014, 39-015, 39-016, 40-007, 40-010, 41-002, 41-003, 42-015, 42-016, 42-017, 42-018, 42-019, 42-020, 42-021, 42-022, 42-023, 42-024, 42-025, 43-001, 43-002, 43-003, 43-004, 43-005, 43-006, 43-007, 43-008, 43-009, 43-010, 43-011, 43-012, 43-013, 43-014, 43-015, 43-016, 43-017, 43-018, 43-019, 43-020, 43-021, 44-001, 44-002, 44-003, 44-004, 44-005, 44-006, 44-007, 44-008, 44-009, 44-010, 44-011, 44-012, 44-013, 44-014, 45-025, 45-026, 45-027, 45-028, 45-029, 45-030, 45-031, 45-032, 45-032a

investigation and environmental surveys (including without prejudice to the generality of the foregoing, topographic, drainage, archaeological, geotechnical, geoenvironmental, ecological and ground stability site investigations and surveys), making of boreholes, trial pits and archaeological trenches and field stripping, auger hole sampling and the taking of soil and other samples;

19. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove cable marker posts to identify the location of the cables as required for routine integrity testing;

20. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary access roads, hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram;

21. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove public and private drains, watercourses, sewers, ponds or culverts, and to drain into and manage waterflows in any public and private drains, watercourses, sewers, ponds or culverts including (but not limited to) by way of damming and overpumping;

22. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove supporting or protective structures (including the bridging over of or protection of the apparatus of the statutory undertakers);

23. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary haul roads;

24. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary barriers for the protection of fauna;

25. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary noise alleviation measures;

26. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert,

protect, make safe, make incapable of operation, replace and remove temporary paths and bridleways for public use;

27. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary welfare facilities (including but not limited to portakabins, portaloos and welfare equipment);

28. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove fencing, gates, walls, barriers or other means of enclosure;

B. A restrictive covenant over the land for the benefit of the remainder of the order land to—

- (a) prevent anything being done in or upon the land or any part thereof for the purposes of—
 - (i) the construction of any buildings; or
 - (ii) the hard surfacing of the land;
- (b) prevent the planting of any trees or shrubs on the land without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, or shrubs would not cause damage to the relevant part of the authorised development nor make it materially more difficult to maintain or to access the relevant part of the authorised development);
- (c) prevent the carrying out of any excavations or works or agricultural practices to a depth greater than 0.75 metre from the surface of the land, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed, with consent for trench digging requests relating to waterlogging to be determined within 24 hours, if the proposed activity would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development) provided that (for the avoidance of doubt)—
 - (i) ordinary agricultural practices including but not limited to acts of cultivation including soil preparation, ploughing and sub-soiling, not exceeding 0.75 metre in depth from the surface of the land, do not require the consent of the undertaker; and
 - (ii) flushing of land drainage systems, maintenance of outfalls and culverts of land drainage systems, clearance of vegetation (by use of machinery or by

hand) and the operation of existing land drainage systems do not require the consent of the undertaker provided that no excavations take place to a depth greater than 0.75 metre.

09-012, 09-013, 09-016, 09-017

A. All rights and restrictions necessary for the undertaker and/or those authorised by the Undertaker—

1. to install the cables by the use of directional drilling or other trenchless techniques only;
2. to retain and use the Cables for the purposes of the transmission of electricity and telecommunications;
3. to benefit from continuous vertical and lateral support for the cables;
4. to access the land temporarily (and during the construction phase of the authorised project only) with or without vehicles and machinery so as to remove materials (arising as a result of works to install the cables) from the land;
5. to access the land temporarily with or without vehicles and machinery to carry out surveys including for site investigation and environmental surveys (including without prejudice to the generality of the foregoing, topographic, drainage, archaeological, geotechnical, geoenvironmental, ecological and ground stability site investigations and surveys), making of boreholes, trial pits and archaeological trenches and field stripping, auger hole sampling and the taking of soil and other samples;

B. A restrictive covenant over the land for the benefit of the remainder of the order land to prevent anything being done in or upon the land or any part thereof which interferes with or might interfere with the exercise of the rights or the use of the cables or in any way render the cables in breach of any statute or regulation for the time being in force and applicable thereto.

45-046a, 45-054, 45-058, 45-062, 46-016, 46-023, 46-024, 46-025, 47-032, 47-033, 48-014, 48-015, 48-017, 48-018, 48-019, 48-020, 48-021, 48-022, 48-023, 48-024, 48-025, 49-007, 49-008, 49-009, 49-010, 50-002, 50-003, 50-004, 50-005, 50-006, 50-006a, 50-007, 50-007a, 51-001, 51-001a, 51-002, 51-003, 51-004, 51-005, 51-006, 51-007, 51-008, 51-009, 51-010, 51-011, 51-012, 51-013, 51-014, 51-015

A. All rights and restrictions necessary for the undertaker and/or those authorised by the undertaker to enter onto, pass and repass and remain on the land with or without all necessary plant, vehicles, machinery, materials, drilling fluids, apparatus, temporary structures and equipment and

1. the right to install the cables by way of (but not limited to) digging trenches, the use of directional drilling, auger boring, thrust boring, micro tunnelling or pipe ramming or other similar trenchless techniques;
2. the right to retain and use the cables and jointing installations for the purposes of the transmission of electricity and telecommunications;
3. the right to benefit from continuous vertical and lateral support for the cables and jointing installations;
4. the right to benefit from continuous vertical and lateral support for the pipes, cables, conduits, service media and apparatus installed in, under, or over the land;
5. the right to carry out terrestrial work activities;

6. the right to access adjoining land and highway;
7. the right to place and use plant, vehicles, machinery, materials, drilling fluids, apparatus, equipment and temporary structures on and within the land;
8. the right to remove and discharge water from the land;
9. the right to remove, store and stockpile materials (including excavated material) within the land;
10. the right to erect temporary signage and provide measures for the benefit of public and personnel safety;
11. the right to fell, prune, cut, coppice, alter, lop, uproot and replant trees, shrubs and hedges, and remove roots of trees, shrubs and hedges;
12. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove pipes, cables, conduits, service media or apparatus that are used for the purposes of transmitting or distributing electricity, communications, gas, oil, water supply, sewerage and drainage (including the pipes, cables, conduits, service media or apparatus of statutory undertakers);
13. the right to remove archaeological artefacts where they would prevent or cause it to be materially more difficult to undertake terrestrial work activities or where leaving such archaeological artefacts in situ would materially increase the cost of the terrestrial work activities;
14. the right to remove fences, hedges, gates or other barriers during any period during which terrestrial work activities are being undertaken (subject to the prior erection of any temporary stock proof fencing as is reasonably required) and the replacement, replanting or re-instatement of fences, hedges or other barriers;
15. the right to carry out surveys including for site investigation and environmental surveys (including without prejudice to the generality of the foregoing, topographic, drainage, archaeological, geotechnical, geoenvironmental, ecological and ground stability site investigations and surveys), making of boreholes, trial pits and archaeological trenches and field stripping, auger hole sampling and the taking of soil and other samples;
16. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove cable marker posts to identify the location of the cables as required for routine integrity testing;
17. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary access roads, hard standing and

other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram;

18. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove public and private drains, watercourses, sewers, ponds or culverts, and to drain into and manage waterflows in any public and private drains, watercourses, sewers, ponds or culverts including (but not limited to) by way of damming and overpumping;

19. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove supporting or protective structures (including the bridging over of or protection of the apparatus of the statutory undertakers);

20. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary haul roads;

22. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary welfare facilities (including but not limited to portakabins, portaloos and welfare equipment);

23. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove fencing, gates, walls, barriers or other means of enclosure;

B. A restrictive covenant over the land for the benefit of the remainder of the order land to—

- (a) prevent anything being done in or upon the land or any part thereof for the purposes of—
 - (i) the construction of any buildings; or
 - (ii) the hard surfacing of the land;
- (b) prevent the planting of any trees or shrubs on the land without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, or shrubs would not cause damage to the relevant part of the authorised development nor make it materially more difficult to maintain or to access the relevant part of the authorised development);
- (c) prevent the carrying out of any excavations or works or agricultural practices to a depth greater than 0.75 metre from the surface of the

land, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed, with consent for trench digging requests relating to waterlogging to be determined within 24 hours, if the proposed activity would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development) provided that (for the avoidance of doubt)—

- (i) ordinary agricultural practices including but not limited to acts of cultivation including soil preparation, ploughing and sub-soiling, not exceeding 0.75 metre in depth from the surface of the land, do not require the consent of the undertaker; and
- (ii) flushing of land drainage systems, maintenance of outfalls and culverts of land drainage systems, clearance of vegetation (by use of machinery or by hand) and the operation of existing land drainage systems do not require the consent of the undertaker provided that no excavations take place to a depth greater than 0.75 metre.

15-032, 15-035, 15-028, 15-033, 15-031, 15-030, 15-034, 15-036, 15-029

All rights and restrictions necessary for the undertaker and/or those authorised by the undertaker to enter onto, pass and repass and remain on the land with or without all necessary plant, vehicles, machinery, materials, drilling fluids, apparatus, temporary structures and equipment and

1. the right to carry out terrestrial work activities;
2. the right to access adjoining land and highway including use of the existing or any replacement bridge;
3. the right to place and use plant, vehicles, machinery, materials, drilling fluids, apparatus, equipment and temporary structures on and within the land;
4. the right to construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, protect, make safe, replace and remove the bridge and supporting structures on or over or in the land;
5. the right to remove, store and stockpile materials (including excavated material) within the land;
6. the right to retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the land, adjoining land and highway;
7. the right to erect temporary signage and provide measures for the benefit of public and personnel safety;
8. the right to fell, prune, cut, coppice, alter, lop, uproot and replant trees, shrubs and hedges, and remove roots of trees, shrubs and hedges;
9. the right to lay down, construct, install, retain,

adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove pipes, cables, conduits, service media or apparatus that are used for the purposes of transmitting or distributing electricity, communications, gas, oil, water supply, sewerage and drainage (including the pipes, cables, conduits, service media or apparatus of statutory undertakers);

10. the right to remove archaeological artefacts where they would prevent or cause it to be materially more difficult to undertake terrestrial work activities or where leaving such archaeological artefacts in situ would materially increase the cost of the terrestrial work activities;

11. the right to remove fences, hedges, gates or other barriers during any period during which terrestrial work activities are being undertaken (subject to the prior erection of any temporary stock proof fencing as is reasonably required) and the replacement, replanting or re-instatement of fences, hedges or other barriers;

12. the right to carry out surveys including for site investigation and environmental surveys (including without prejudice to the generality of the foregoing, topographic, drainage, archaeological, geotechnical, geoenvironmental, ecological and ground stability site investigations and surveys), making of boreholes, trial pits and archaeological trenches and field stripping, auger hole sampling and the taking of soil and other samples;

13. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram;

14. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove supporting or protective structures (including the bridging over of or protection of the apparatus of the statutory undertakers);

15. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove fencing, gates, walls, barriers or other means of enclosure.

45-002, 45-003, 45-004, 45-006, 45-007, 45-009, 45-010, 45-011, 45-012, 45-013, 45-014, 45-016, 45-017, 45-018, 45-019, 45-020, 45-022, 45-034, 45-035, 45-036, 45-037, 45-038, 45-042, 45-043, 45-044, 45-045, 45-046, 45-047, 45-048, 45-049, 45-049a, 45-

A. All rights and restrictions necessary for the undertaker and/or those authorised by the undertaker to enter onto, pass and repass and remain on the land with or without all necessary plant, vehicles, machinery, materials, drilling fluids, apparatus, temporary structures and equipment and

1. the right to carry out terrestrial work activities;

051, 45-051a, 45-052, 45-052a, 45-055, 45-056, 45-057, 45-059, 45-060, 45-061, 45-063, 45-064, 45-065, 45-065a, 45-067, 45-069, 45-073, 46-001, 46-004, 46-005, 46-007, 46-009, 46-010, 46-011, 46-012, 46-013, 46-014, 46-015, 46-018, 46-019, 46-020, 46-027, 46-028, 46-029, 46-030, 46-031, 46-032, 46-034, 46-035, 46-037a, 46-036, 46-038, 46-039, 46-040, 46-042, 46-043, 46-044a, 46-045, 46-046, 46-047, 47-007, 47-010, 47-012, 47-013, 47-014, 47-015, 47-016, 47-018, 47-019, 47-020, 47-021, 47-022, 47-023, 47-024, 47-025, 47-027, 47-036, 47-037, 47-038, 48-001, 48-003, 48-004, 48-008, 48-009, 48-010, 48-011, 48-013

2. the right to access adjoining land and highway;
3. the right to place and use plant, vehicles, machinery, materials, apparatus, equipment and temporary structures on and within the land;
4. the right to remove and discharge water from the land;
5. the right to remove, store and stockpile materials (including excavated material) within the land;
6. the right to retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the land, adjoining land and highway;
7. the right to erect temporary signage and provide measures for the benefit of public and personnel safety;
8. the right to fell, prune, cut, coppice, alter, lop, uproot and replant trees, shrubs and hedges, and remove roots of trees, shrubs and hedges;
9. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove pipes, cables, conduits, service media or apparatus that are used for the purposes of transmitting or distributing electricity, communications, gas, oil, water supply, sewerage and drainage (including the pipes, cables, conduits, service media or apparatus of statutory undertakers);
10. the right to remove archaeological artefacts where they would prevent or cause it to be materially more difficult to undertake terrestrial work activities or where leaving such archaeological artefacts in situ would materially increase the cost of the terrestrial work activities;
11. the right to remove fences, hedges, gates or other barriers during any period during which terrestrial work activities are being undertaken (subject to the prior erection of any temporary stock proof fencing as is reasonably required) and the replacement, replanting or re-instatement of fences, hedges or other barriers;
12. the right to carry out surveys including for site investigation and environmental surveys (including without prejudice to the generality of the foregoing, topographic, drainage, archaeological, geotechnical, geoenvironmental, ecological and ground stability site investigations and surveys), making of boreholes, trial pits and archaeological trenches and field stripping, auger hole sampling and the taking of soil and other samples;
13. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram;
14. the right to lay down, construct, install, retain,

adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove public and private drains, watercourses, sewers or culverts, and to drain into and manage waterflows in any public and private drains, watercourses, sewers or culverts;

15. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove supporting or protective structures (including the bridging over of or protection of the apparatus of the statutory undertakers);

16. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove temporary paths and bridleways for public use;

17. the right to lay down, construct, install, retain, adjust, alter, test, use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, connect into, divert, protect, make safe, make incapable of operation, replace and remove fencing, gates, walls, barriers or other means of enclosure;

B. A restrictive covenant over the land for the benefit of the remainder of the order land to—

- (a) prevent anything being done in or upon the land or any part thereof for the purposes of—
 - (i) the construction of any buildings; or
 - (ii) the hard surfacing of the land;
- (b) prevent the planting of any trees or shrubs on the land without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, or shrubs would not cause damage to the relevant part of the authorised development nor make it materially more difficult to maintain or to access the relevant part of the authorised development);
- (c) prevent the carrying out of any excavations or works or agricultural practices to a depth greater than 0.75 metre from the surface of the land, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed, with consent for trench digging requests relating to waterlogging to be determined within 24 hours, if the proposed activity would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development) provided that (for the avoidance of doubt)—

	(i) ordinary agricultural practices including but not limited to acts of cultivation including soil preparation, ploughing and sub-soiling, not exceeding 0.75 metre in depth from the surface of the land, do not require the consent of the undertaker; and
	(ii) flushing of land drainage systems, maintenance of outfalls and culverts of land drainage systems, clearance of vegetation (by use of machinery or by hand) and the operation of existing land drainage systems do not require the consent of the undertaker provided that no excavations take place to a depth greater than 0.75 metre.
01-011, 01-012, 09-007, 09-008, 09-009, 09-010, 15-019, 15-025, 15-038, 15-039, 45-041a, 46-022, 46-041, 47-006, 47-008, 47-009, 47-014a	All rights and restrictions necessary for the undertaker and/or those authorised by the undertaker to enter onto, pass and repass and remain on the land with or without all necessary plant, vehicles, machinery, materials, drilling fluids, apparatus, temporary structures and equipment and 1. the right to carry out terrestrial work activities; 2. the right to access adjoining land and highway.

SCHEDULE 8

Article 22

Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictions

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1, The Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 5—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

3.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—
“(5A) If—

(a) 1973 c.26.

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 7 of Schedule 8 to the Outer Dowsing Offshore Wind Farm Order 20[]); and
 - (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 10 of Schedule 8 to the Outer Dowsing Offshore Wind Farm Order 20[]) to acquire an interest in the land, and
 - (c) the acquiring authority enters on and takes possession of that land,
- the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”

Application of the 1965 Act

4.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restriction with the modifications specified in the following provisions of this Schedule.

5. For section 7 of the 1965 Act (measure of compensation in case of severance) substitute the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (refusal to convey, failure to make title, etc.);
- (b) paragraph 10(3) of Schedule 1 (conveyance of the land or interest);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 20 (compulsory acquisition of land), it has power, exercisable

in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on specified date)(a), 12 (unauthorised entry)(b) and 13 (refusal to give possession to acquiring authority)(c) of the 1965 Act are modified correspondingly.

8. Section 20 of the 1965 Act (tenants at will, etc.)(d) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (interests omitted from purchase) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

10. For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A Counter-notice requiring purchase of land

Introduction

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) of the Outer Dowsing Offshore Wind Farm Order 20[] in respect of the land to which the notice to treat relates.

(2) But see article 26(3) (acquisition of subsoil or airspace only) of the Outer Dowsing Offshore Wind Farm Order 202[], which excludes the acquisition of subsoil or airspace from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

(a) Section 11B was inserted by section 187 of the Housing and Planning Act 2016 (c.22).
(b) Section 12 was amended by paragraph 4 of Schedule 16 to the Housing and Planning Act 2016 (c.22).
(c) Section 13 was amended by the Tribunals, Courts and Enforcement Act 2007.
(d) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 and paragraph 70 of Schedule 1 to the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009/1307.

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The acquiring authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the acquiring authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the acquiring authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the acquiring authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 9

Article 28

Land of which temporary possession may be taken

<i>(1) Area</i>	<i>(2) Number of land shown on land plan</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of the authorised project</i>
District of Boston	33-019, 33-020, 33-021, 33-022, 33-023, 33-024, 33-025, 34-010, 34-011, 34-012, 34-013, 38-003, 38-004, 38-009, 42-004, 43-023, 43-024, 43-029, 43-030, 43-031, 43-032, 43-033, 43-034, 43-035, 43-042, 43-043, 43-044, 43-045, 43-046, 43-047, 44-027, 44-028, 44-029	Temporary use (including laying of temporary vehicular access tracks, bellmouths and associated footpaths) to facilitate construction of Work Nos. 15, 16, 17 and 19.	Work No. 18
District of East Lindsey	04-013, 05-005, 07-010, 07-011, 08-001, 08-002, 08-003, 08-008, 10-014, 12-016, 13-012, 14-001, 14-002, 14-003, 15-018, 15-020, 15-021, 15-022, 15-023, 15-024, 15-026, 15-027, 15-045, 15-051, 16-001, 16-002, 20-001	Temporary use (including laying of temporary vehicular access tracks, bellmouths and associated footpaths) to facilitate construction of Work Nos. 15, 19 and 22.	Work No. 18
District of South Holland	49-001, 49-002, 49-003, 49-004	Temporary use (including laying of temporary vehicular access tracks, bellmouths and associated footpaths) to facilitate construction of Work Nos. 15, 16, 17 and 19.	Work No. 18
District of Boston	23-023, 26-025, 27-003, 27-004, 27-004a, 29-007, 29-011, 29-012, 30-001, 33-011, 33-030, 33-031, 34-009, 34-021, 34-022, 36-002, 36-003, 36-004, 39-013, 39-021, 42-003, 43-026, 43-027, 43-028, 43-038, 43-039, 43-040, 43-041, 45-040, 47-029, 49-005, 49-006	Temporary use (consisting of temporary works areas to support construction activities; temporary construction ramps; storage areas to assist with the onshore transmission works; and vehicular access tracks, bellmouths and footpaths) to facilitate construction of Work No. 15.	Work No. 19

District of East Lindsey	02-001, 02-002, 04-014, 07-008, 07-009, 07-012, 08-009, 10-013, 10-015, 10-019, 13-013, 13-014, 15-017, 15-037, 15-040, 15-052, 18-020, 20-002, 20-003	Temporary use (consisting of temporary works areas to support construction activities; temporary construction ramps; storage areas to assist with the onshore transmission works; and vehicular access tracks, bellmouths and footpaths) to facilitate construction of Work Nos. 13, 14, 15 and 22.	Work No. 19
District of South Holland	45-040 47-004 47-029 49-005 49-006	Temporary use (consisting of temporary works areas to support construction activities; temporary construction ramps; storage areas to assist with the onshore transmission works; and vehicular access tracks, bellmouths and footpaths) to facilitate construction of Work Nos. 15, 16, 17, 20, 23, 24 and 25.	Work No. 19
District of Boston	33-017, 33-018, 34-025, 35-001, 35-002, 35-003, 36-005, 36-006, 36-007, 36-008, 39-022, 39-023, 42-005, 42-006, 42-007, 42-008, 42-009, 42-010, 42-013, 42-014, 43-022	Temporary use (highway alterations including widening of the highway, provision of passing bays, culverting and drainage works) to facilitate construction of Work No. 15.	Work No. 21
District of East Lindsey	17-036, 17-037, 20-009	Temporary use (highway alterations including widening of the highway, provision of passing bays, culverting and drainage works) to facilitate construction of Work No. 15.	
District of Boston	21-010, 22-001, 22-002, 22-003, 22-006, 22-007, 22-008, 22-010, 22-014, 22-015, 22-016, 22-017, 22-019, 22-020, 22-024, 22-025, 22-029, 22-	Temporary use (including enabling works) for vehicular access to facilitate the construction of Work Nos. 15, 19, and 24.	Enabling accesses

District of East Lindsey	029a, 22-030, 23-003, 23-004, 23-006, 23- 007, 23-014, 23-017, 23-018, 23-025, 23- 028, 23-029, 23-031, 23-035, 24-001, 24- 004, 24-006, 24-007, 24-008, 24-009, 24- 011, 24-012, 25-015, 25-016, 25-023, 25- 028, 25-029, 26-001, 26-002, 26-004, 26- 015, 26-019, 26-020, 26-021, 27-012, 27- 013, 27-014, 27-016, 27-017, 27-018, 27- 020, 27-022, 27-025, 27-026, 27-028, 27- 029, 28-004, 28-008, 28-009, 28-010, 28- 013, 28-015, 29-001, 29-002, 29-003, 29- 006, 30-003, 30-004, 30-011, 30-012, 30- 018, 30-019, 32-001, 32-002, 32-012, 32- 013, 32-020, 32-021, 32-022, 32-023, 32- 024, 33-006, 33-007, 33-032, 33-033, 33- 034, 34-001, 34-002, 34-008, 34-017, 34- 024, 37-005, 37-006, 37-007, 37-008, 37- 010, 38-001, 38-002, 39-010, 39-011, 39- 012, 39-017, 39-018, 39-019, 40-001, 40- 002, 40-003, 40-006, 40-008, 40-009, 41- 001, 42-001, 42-002, 42-011, 42-012, 42- 026, 43-025, 43-036, 44-015, 44-016, 44- 017, 44-018, 44-019, 44-020, 44-021, 44- 022, 44-023, 44-024, 44-025, 44-026, 45- 023, 45-024, 45-033 01-019, 02-003, 02- 004, 02-005, 02-014, 02-015, 02-016, 02- 017, 02-018, 02-019, 02-020, 02-021, 03- 001, 03-002, 03-003, 03-004, 03-005, 03- 006, 03-007, 03-011,	Temporary use (including enabling works) for vehicular access to facilitate the construction of Work Nos. 13, 14, 15, 19 and 22.	Enabling accesses

	03-012, 03-014, 03-019, 03-020, 03-023, 03-024, 03-027, 03-031, 04-001, 04-002, 04-003, 04-005, 04-007, 04-008, 04-009, 04-010, 04-015, 04-022, 05-001, 05-012, 05-013, 05-019, 05-020, 06-003, 06-004, 06-006, 06-009, 06-011, 06-013, 06-014, 06-015, 06-016, 06-020, 07-001, 07-002, 07-004, 08-010, 08-011, 08-012, 08-017, 09-001, 09-005, 09-005a, 09-005b, 09-005c, 09-014, 09-015, 09-019, 09-020, 09-021, 10-001, 10-003, 10-007, 10-008, 10-009, 10-010, 10-020, 10-021, 10-022, 11-001, 11-002, 11-004, 11-005, 11-009, 11-013, 11-014, 12-001, 12-002, 12-003, 12-004, 12-011, 12-014, 12-015, 12-017, 13-005, 13-006, 13-007, 13-008, 13-009, 13-015, 13-016, 13-017, 14-010, 14-016, 15-001, 15-002, 15-003, 15-005, 15-014, 16-008, 16-017, 16-018, 16-019, 16-026, 16-028, 17-004, 17-005, 17-017, 17-019, 17-020, 17-025, 17-031, 17-032, 17-033, 18-008, 18-012, 18-015, 18-022, 18-027, 18-029, 18-031, 18-032, 18-035, 18-036, 19-005, 19-007, 19-023, 20-007, 21-001, 21-002, 21-007		
District of South Holland	45-039, 45-053, 45-066, 45-070, 45-071, 45-072, 46-026, 47-001, 47-002, 47-003, 47-028, 47-030, 47-034, 47-035, 48-016, 49-011, 50-001	Temporary use (including enabling works) for vehicular access to facilitate the construction of Work Nos. 15, 16, 17, 19, 20, 23, 24 and 25.	Enabling accesses

Deemed marine licence under the 2009 Act - generation assets

PART 1

Licensed Marine Activities

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Offshore Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017(a);

“the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017;

“Annex 1 reef” means a reef of a type listed in Annex 1 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

“array cable” means the cables described in paragraph (b) of Work No. 1 that link the wind turbine generators to each other and to the offshore transformer substations;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised scheme” means Work Nos. 1, 2, 4 and 8 described in paragraph 3 of Part 1 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

“cable crossings” means the crossing of existing sub-sea cables or pipelines or other existing infrastructure by cable circuits authorised by this Order together with physical protection measures including cable protection;

“cable protection” means measures to protect cables from physical damage including the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

“commence” means the first carrying out of any licensed marine activities authorised by this licence, save for operations consisting of offshore preparation works and the words “commencement” and “commenced” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands, B75 7RL and any successor body to its functions;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“Environment Agency” means the non-departmental public body of that name created by section 1 of the Environment Act 1995;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

(a) S.I. 2017/1013.

“European offshore marine site” has the meaning given in regulation 18 of the 2017 Offshore Regulations(a);

“European site” has the meaning given in regulation 27 of the 2017 Offshore Regulations(b);

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“Historic England” means the Historic Buildings and Monuments Commission for England;

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“in principle Southern North Sea SAC Site Integrity Plan” means the document certified as the in principle Southern North Sea SAC Site Integrity Plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“interlink cable” means the cables comprised within Work No. 4 that link the offshore transformer substations to each other and to the offshore accommodation platform;

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“LAT” means lowest astronomical tide;

“layout principles” means the layout principles set out in paragraph 25 of Chapter 3 (Project Description) of the environmental statement;

“licence 2 (transmission)” means the licence set out in Schedule 11 (deemed licence under the 2009 Act – offshore transmission assets);

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the offshore works, to the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“monopile foundation” means a steel pile, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“MSL” means mean sea level;

“offshore accommodation platform” means a structure attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing housing accommodation, storage, workshop, auxiliary equipment and facilities for operating, maintaining and controlling the wind turbine generators and offshore electrical installations;

“offshore Order limits” means the limits shown on the works plans within which the authorised scheme may be carried out;

(a) Regulation 18 was amended by S.I. 2019/579.

(b) Regulation 27 was amended by S.I. 2019/579.

“offshore preparation works” means surveys and monitoring seaward of MHWS undertaken prior to the commencement of construction to prepare for construction;

“offshore transformer substation” means a structure attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, radar and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“the Order” means the Outer Dowsing Offshore Wind Farm Order 202[*];

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of the Order under article 41;

“outline fisheries liaison and coexistence plan” means the document certified as the outline fisheries liaison and coexistence plan by the Secretary of State for the purposes of the Order under article 41;

“outline marine mammal mitigation protocol (piling)” means the document certified as the outline marine mammal mitigation protocol (piling) by the Secretary of State for the purposes of the Order under article 41;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order under article 41;

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State for the purposes of the Order under article 41;

“outline scour protection and cable protection management plan” means the document certified as the outline scour protection and cable protection management plan by the Secretary of State for the purposes of the Order under article 41;

“outline vessel management plan” means the document certified as the outline vessel management plan by the Secretary of State for the purposes of the Order under article 41;

“outline marine archaeological written scheme of investigation” means the document certified as the outline marine archaeological written scheme of investigation by the Secretary of State for the purposes of the Order under article 41;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“pin pile jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“relevant site” means a European offshore marine site or a European site;

“SAC” means special area of conservation;

“statutory historic body” means Historic England or its successor in function;

“statutory nature conservation body” means the appropriate nature conservation body as defined in regulation 5 of the 2017 Regulations;

“suction bucket” means large diameter steel cylindrical shells which penetrate the seabed assisted by a hydrostatic pressure differential for securing steel jacket foundations;

“suction bucket jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means GT R4 Limited (company number 13281221);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation;

“Work No. 3” means—

- (a) up to four small offshore transformer substations each fixed to the seabed by monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations; or
- (b) up to two large offshore transformer substations each fixed to the seabed by monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations; and

“works plans” means the plans certified as the works plans onshore and works plans offshore by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.).

(2) reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all coordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Marine Licensing Team
Lancaster House Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

CEFAS Building
Pakefield Road
Lowestoft
NR33 0HT
Tel: 0208 026 6094;

(c) Trinity House

Tower Hill
London

EC3N 4DH

Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset

TA1 2DN

Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

UK Technical Services Navigation

Spring Place

105 Commercial Road

Southampton

SO15 1EG

Tel: 020 3817 2426/2433

Email: navigationsafety@mcga.gov.uk;

(f) Natural England

4th Floor, Foss House

1-2 Peasholme Green

York

YO1 7PX

Tel: 0300 060 3900;

(g) Historic England

The Foundry

82 Granville Street

Birmingham

B1 2LH

Tel: 0121 625 6888.

2. Subject to the licence conditions at Part 2, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works and cable laying preparation works;
- (d) debris clearance works;
- (e) boulder clearance works either by displacement ploughing or subsea grab technique or other equivalent method;
- (f) the removal of out of service cables;
- (g) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (h) removal of static fishing gear; and
- (i) the disposal of up to 21,389,090 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works, sandwave clearance and boulder clearance

works at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS (some of which may alternatively be disposed under licence 2 (transmission)).

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 1—

- (a) an offshore wind turbine generating station with a gross electrical output capacity of over 100 MW comprising up to 100 wind turbine generators each fixed to the seabed by either monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations fitted with rotating blades and situated within the area shown on the works plans and further comprising (b) below;
- (b) a network of subsea array cables between the wind turbine generators and between the wind turbine generators and the offshore transformer substations forming part of Work No. 3 including one or more cable crossings;

Work No. 2— up to one offshore accommodation platform fixed to the seabed by either monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations (which may alternatively be constructed under licence 2 (transmission));

Work No. 4— a network of interlink cables between the offshore transformer substations comprised within Work No. 3 and between the offshore transformer substations and the offshore accommodation platform comprised within Work No. 2, for the transmission of electricity and electronic communications, including one or more cable crossings (which may alternatively be constructed under licence 2 (transmission), in whole or in part);

Work No. 8— a temporary work area associated with Work Nos. 1, 2 and 4 for vessels to carry out anchoring and positioning, and for the wet storage of construction materials;

In connection with such Work Nos. 1, 2, 4 and 8 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as but not limited to the placement of rock, split pipe system, and/or mattresses;
- (c) cable crossings;
- (d) dredging;
- (e) the removal of material from the seabed required for the construction of Work Nos. 1, 2, 4 and 8 and the disposal of inert material of natural origin and dredged material within the Order limits produced during construction drilling, seabed preparation for foundation works and cable installation preparation works (such as sandwave clearance and boulder clearance); and
- (f) removal of static fishing equipment.

In connection with such Work Nos. 1, 2, 4 and 8, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised scheme;
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (c) buoys such as wave buoys and LiDAR buoys used for measurement purposes.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works, cable preparation works and sandwave clearance works;
- (g) weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and
- (h) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
142	53° 28' 51.538" N	001° 13' 20.848" E
143	53° 28' 51.539" N	001° 13' 20.848" E
144	53° 28' 27.088" N	001° 10' 54.113" E
145	53° 28' 40.336" N	001° 10' 32.794" E
146	53° 29' 37.647" N	001° 09' 0.491" E
147	53° 29' 37.332" N	001° 06' 3.730" E
148	53° 29' 19.041" N	001° 03' 53.183" E
149	53° 32' 32.232" N	001° 00' 59.093" E
150	53° 34' 31.492" N	001° 04' 32.616" E
151	53° 36' 34.077" N	001° 08' 26.916" E
152	53° 39' 12.689" N	001° 28' 43.588" E
153	53° 32' 3.757" N	001° 32' 46.680" E
154	53° 30' 57.848" N	001° 26' 4.442" E
155	53° 30' 57.847" N	001° 26' 4.443" E

6. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes)(a) of the 2004 Act, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to the details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(a) Section 108 was amended by section 69 of the Energy Act 2008 (c.32).

PART 2

Conditions

Design parameters

- 1.—(1) Each wind turbine generator forming part of the authorised scheme must not—
- (a) exceed a height of 403 metres when measured from LAT to the tip of the vertical blade;
 - (b) exceed a rotor diameter of 340 metres;
 - (c) be less than 40 metres from MSL to the lowest point of the rotating blade; and
 - (d) be less than 605 metres from blade tip to the blade tip of the nearest wind turbine generator.
- (2) Wind turbine generator foundation structures forming part of the authorised scheme must be monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.
- (3) In respect of a wind turbine generator—
- (a) no monopile foundation may have a diameter greater than 13 metres;
 - (b) no gravity base structure foundation may have a diameter at the level of the seabed greater than 55 metres;
 - (c) no pin pile jacket foundation forming part of the authorised scheme may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than four pin piles per jacket foundation;
 - (d) no suction bucket jacket foundation forming part of the authorised scheme may—
 - (i) have a suction bucket diameter of greater than 20 metres; or
 - (ii) employ more than four suction buckets per jacket foundation;
- (4) The total seabed footprint area for wind turbine generator foundations must not exceed—
- (a) 122,904 square metres excluding scour protection; and
 - (b) 1,041,400 square metres including scour protection.
- (5) No wind turbine generator or offshore accommodation platform forming part of the authorised scheme is to be erected within the area hatched black and marked “offshore restricted build area” on the works plans, whose coordinates are specified below and shown on the offshore order limits and grid coordinates plan—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
150	53° 34' 31.492" N	001° 04' 32.616" E
151	53° 36' 34.077" N	001° 08' 26.916" E
152	53° 39' 12.689" N	001° 28' 43.588" E
845	53° 33' 59.545" N	001° 03' 36.079" E
846	53° 33' 59.382" N	001° 03' 35.074" E
847	53° 34' 09.033" N	001° 03' 52.365" E
848	53° 34' 31.223" N	001° 04' 32.133" E
849	53° 36' 37.559" N	001° 19' 54.519" E
850	53° 38' 07.792" N	001° 29' 20.432" E
851	53° 34' 27.499" N	001° 06' 28.034" E

- 2.—(1) The total number of offshore accommodation platforms forming part of the authorised scheme and the authorised scheme in licence 2 (transmission) taken together must not exceed one (whether constructed under this licence or licence 2 (transmission)).

(2) The dimensions of the offshore accommodation platform forming part of the authorised scheme must not exceed—

- (a) 80.2 metres in height when measured from LAT;
- (b) 84 metres in length; and
- (c) 84 metres in width.

(3) Offshore accommodation platform foundation structures forming part of the authorised scheme must be one of either monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(4) In respect of an offshore accommodation platform—

- (a) no monopile foundation may have a diameter greater than 14 metres;
- (b) no gravity base structure foundation may exceed, at the level of the seabed—
 - (i) a length of 72 metres; or
 - (ii) a width of 36 metres;
- (c) no pin pile jacket foundation forming part of the authorised scheme may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than 24 pin piles per jacket foundation;
- (d) no suction bucket jacket foundation forming part of the authorised scheme may—
 - (i) have a suction bucket diameter of greater than 20 metres; or
 - (ii) employ more than eight suction buckets per jacket foundation;

(5) The total seabed footprint area for offshore accommodation platform foundations must not exceed—

- (a) 2,600 square metres excluding scour protection; and
- (b) 19,600 square metres including scour protection.

3.—(1) The total length of the cables forming part of the authorised scheme and the authorised scheme in licence 2 (transmission) and the volume and area of their cable protection must not exceed the following (whether installed under this licence or licence 2 (transmission))—

<i>Work</i>	<i>Length</i>	<i>Area of cable protection</i>	<i>Volume of cable protection</i>
Work No. 1(b) (array cable)	377.42km	1,270,357m ²	1,214,494m ³
Work No. 4 (interlink cables)	123.75km	406,438m ²	399,234m ³

(2) The total number of cable crossings in respect of the array cables comprised within Work No. 1(b) must not exceed 30, unless otherwise agreed with the MMO.

Maintenance of the authorised scheme

4.—(1) The undertaker may at any time maintain the authorised scheme, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Maintenance works include but are not limited to—

- (a) major wind turbine component or offshore accommodation platform replacement;
- (b) painting and applying other coatings to wind turbine generators or the offshore accommodation platform;
- (c) bird waste and marine growth removal;
- (d) cable remedial burial;
- (e) cable repairs and replacement;
- (f) cable protection replenishment;

- (g) access ladder and boat landing replacement;
- (h) wind turbine generator and accommodation platform anode replacement; and
- (i) J-tube repair/replacement.

(4) Where the MMO's approval is required under sub-paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Vessels under the undertaker's control

5.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

6. Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notification and Inspection

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent variations to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 16; and
 - (ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 16;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in sub-paragraph (a) above must confirm receipt of this licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 16 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any offshore operations manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

(7) The Kingfisher Information Service of Seafish must be informed of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or part thereof

by including the information in a notice via the Kingfisher Service of Seafish portal (<https://kingfisherbulletin.org/submit-notice>) and sent by email to kingfisher@seafish.co.uk—

- (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) as soon as reasonably practicable and no later than 24 hours after completion of construction of the authorised scheme.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least 14 days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 1, and to the extent that they are carried out under this licence, Work Nos. 2, 4 and 8, and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 13(1)(b). Copies of all notices must be provided to the MMO and UK Hydrographic Office within five days.

(10) The undertaker must notify the UK Hydrographic Office—

- (a) of commencement of the licensed activities at least 14 days prior to commencement;
- (b) of the progress of the licensed activities; and
- (c) of completion of construction of the licensed activities within 14 days of completion

in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, Kingfisher Information Service, the UK Hydrographic Office and regional fisheries organisations.

(12) In case of exposure of cables on or above the seabed, the undertaker must, within three days following identification of a cable exposure, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, MCA, Trinity House, UK Hydrographic Office and regional fisheries organisations within five days.

Aids to navigation

8.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan approved pursuant to condition 13(1)(i) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 7(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of structures

9.—(1) Except as otherwise required by Trinity House the undertaker must paint all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least Highest Astronomical Tide to a height as directed by Trinity House.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the remainder of the structures are painted submarine grey (colour code RAL 7035).

Aviation safety

10. The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the authorised scheme, in writing of the following information—

- (a) the date of the commencement of construction of the authorised scheme;
- (b) the date any wind turbine generators are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any wind turbine generator and offshore accommodation platform to be constructed;
- (e) the latitude and longitude of each wind turbine generator and offshore accommodation platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised scheme. Copies of notifications must be provided to the MMO within five days of the notification to the Defence Infrastructure Organisation Safeguarding.

Chemicals, drilling and debris

11.—(1) Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations, and sandwave clearance works is disposed of within the disposal site reference(s) to

be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan approved under condition 13(1)(e)(i).

(10) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (0344 382 0580), and the UK Hydrographic Office email: navwarnings@btconnect.com.

(11) All dropped objects including those in sub-paragraph (10), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.

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

Notification of unauthorised deposits

12.—(1) If the master of a vessel determines that it is necessary to make an unauthorised deposit within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

13.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be approved in writing by the MMO in consultation with Trinity House, the MCA, UKHO and the relevant statutory nature conservation body which shows—
 - (i) the proposed location and choice of foundation of all wind turbine generators and the offshore accommodation platform;
 - (ii) the grid coordinates of the centre point of the proposed location for each wind turbine generator and offshore accommodation platform;
 - (iii) the height to the tip of the vertical blade and height to the centreline of the generator shaft forming part of the hub;

- (iv) rotor diameter and spacing of all wind turbine generators;
 - (v) the length and arrangement of all cables comprising Work Nos. 1(b) and, to the extent that they are to be installed under this licence, Work No. 4;
 - (vi) the dimensions of all gravity base structure foundations;
 - (vii) the dimensions of all pin pile jacket foundations;
 - (viii) the dimensions of all suction bucket jacket foundations;
 - (ix) the dimensions of all monopile foundations;
 - (x) the proposed layout of all wind turbine generators (to be in accordance with the layout principles and which must accord with the recommendations for layout contained in MGN654 and its annexes) and the offshore accommodation platform including any exclusion zones identified under condition 13(1)(g)(iv);
 - (xi) a plan showing the indicative layout of all wind turbine generators and the offshore accommodation platform including all exclusion zones (insofar as not shown in (ix) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under condition 13(1)(b)(iii); and
 - (xii) any exclusion zones/environmental micro-siting requirements;
to ensure conformity with the description of Work Nos. 1, 2, 4 and 8 and compliance with conditions 1 to 12 above.
- (b) A construction programme to include details of—
- (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) an indicative written construction programme for all wind turbine generators, the offshore accommodation platform and cables comprised in the works at paragraph 3 of Part 1 (licensed marine activities) of this licence (insofar as not shown in subparagraph (ii) above);
- (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 six months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
 - (ii) at least six months prior to construction, detail of construction monitoring;
 - (iii) at least six months prior to completion of construction, detail of post-construction (and operational) monitoring;
- unless otherwise agreed in writing with the MMO.
- (d) A construction method statement in accordance with the construction methods assessed in the environmental statement, to be submitted to the MMO at least six months prior to commencement of licensed activities, and including details of—
- (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works;
 - (ii) cable specification, installation and monitoring, in accordance with the outline cable specification and installation plan, to include—
 - (aa) technical specification of offshore cables below MHWS;
 - (bb) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with

- the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or such similar assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
- (cc) proposals for monitoring offshore cables and the status of cable protection during the operational lifetime of the authorised scheme which include a risk based approach to the management of unburied or shallow buried cables.
 - (iii) scour protection and cable protection management in accordance with the outline scour protection and cable protection management plan including details of the need, type, sources, quantity and installation methods for scour protection and cable protection, with details updated and resubmitted for approval if changes to it are proposed following cable laying operations;
 - (iv) main contractors;
 - (v) vessels and vessels transit corridors; and
 - (vi) associated and ancillary works.
- (e) A project environmental management plan in accordance with the outline project environmental management plan covering the period of construction and operation to include details of—
- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
 - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
 - (v) a fisheries liaison and coexistence plan in accordance with the outline fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 7 and to address the interaction of the licensed activities with fishing activities;
 - (vi) a vessel management plan in accordance with the outline vessel management plan including details of vessel routing to and from construction sites and ports and to include a code of conduct for vessel operators; and
 - (vii) a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised.
- (f) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the outline marine mammal mitigation protocol (piling), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body, to be submitted to the MMO at least six months prior to commencement of piling activities. The marine mammal mitigation protocol must include consideration of deployment of noise mitigation systems or noise abatement systems that will be utilised to manage sounds from those piling activities. The marine mammal mitigation protocol must include full details and justification for the mitigation chosen or excluded for deployment.
- (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 to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;

- (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction, where required;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS (Online Access to the Index of archaeological investigationS) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (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 six months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
- (i) An aids to navigation management plan to be approved in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 for the lifetime of the authorised scheme.
- (2) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed—
- (a) 6,600kJ in respect of monopile foundations; and
 - (b) 3,500kJ in respect of pin piles.
- (3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of archaeological investigation which is itself in accordance with the details set out in the outline written scheme of investigation (offshore), and which has been submitted to and approved by the MMO in consultation with the statutory historic body.
- 14.—**(1) Any archaeological reports produced in accordance with condition 13(1)(g)(iii) are to be approved by the statutory historic body.
- (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.
- (3) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 13.
- (4) Subject to sub-paragraph (6), 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.

(5) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 13, unless otherwise agreed in writing by the MMO.

(6) Where an application for approval is made under condition 13(1)(c), (d), (f) or (h), the MMO must determine the application for approval within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

Offshore safety management

15. No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

Reporting of engaged agents, contractors and vessels

16.—(1) The undertaker must provide the following information to the MMO, unless otherwise agreed in writing by the MMO—

- (a) the name, company number (if applicable), address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities, including the master’s name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Pre-construction monitoring and surveys

17.—(1) The undertaker must, in discharging condition 13(1)(c), submit details (which accord with the in principle monitoring plan) for written approval by the MMO in consultation with the relevant statutory nature conservation body of proposed pre-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format and content for a pre-construction baseline report; and

- (a) the survey proposals must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats in the parts of the Order limits in which it is proposed to carry out construction works;
- (b) a swath-bathymetry survey to IHO Order 1a standard that meets the requirements MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works;

- (c) any marine mammal monitoring required by the monitoring plan submitted in accordance with condition 13(1)(c); and
- (d) any ornithological monitoring required by the monitoring plan submitted in accordance with condition 13(1)(c).

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Construction monitoring

18.—(1) The undertaker must, in discharging condition 13(1)(c), submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation body of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The monitoring proposals must specify each survey's objectives.

(2) In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed collectively under this licence and under licence 2 (transmission), unless otherwise agreed in writing by the MMO.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph (2) must be provided to the MMO within six weeks of the installation of the first four piled foundations of each piled foundation type (unless otherwise agreed with the MMO). The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the opinion of the MMO in consultation with the statutory nature conservation body, the assessment shows impacts significantly in excess of those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(4) The undertaker must carry out the monitoring approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(5) Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. An appropriate report must be submitted to the MMO, Trinity House and the MCA at the end of each year of the construction period.

Post construction

19.—(1) The undertaker must, in discharging condition 13(1)(c), submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with relevant statutory nature conservation body of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position or will enable the validation or otherwise of key predictions in the environmental statement.

(2) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;

- (b) within twelve months of completion of the licensed activities, a full sea floor coverage swath-bathymetry survey that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables have been buried or protected;
- (c) any marine mammal monitoring required by the monitoring plan submitted in accordance with condition 13(1)(c);
- (d) any ornithological monitoring required by the monitoring plan submitted in accordance with condition 13(1)(c); and
- (e) post-construction traffic monitoring, which includes vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of the authorised scheme, unless otherwise agreed in writing by the MMO. An appropriate report must be submitted to the MMO, Trinity House and the MCA at the end of each year of the three year period.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(4) Following installation of cables, the cable monitoring plan required under condition 13(1)(d)(ii)(cc) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

Reporting of impact pile driving

20.—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and
- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) “*Marine Noise Registry*” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) “*Forward Look*” and “*Close Out*” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

Deployment of cable protection

21. No cable protection granted by this licence may be deployed within the IDRBNR SAC after the construction period has ended. Any cable protection to be installed outside of the IDRBNR SAC following completion of construction in locations where cable protection was not installed during

construction must be deployed within 10 years of completion of construction, unless otherwise agreed by the MMO in writing..

Southern North Sea Special Area of Conservation Site Integrity Plan (Piling)

22.—(1) No piling activities can begin until a Site Integrity Plan (SIP), which accords with the principles set out in the in principle Southern North Sea SAC Site Integrity Plan, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted to the MMO no later than six months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

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

(6) The MMO must determine an application for approval made under condition 22 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(7) The licensed activities must be carried out in accordance with the SIP approved under condition 22, unless otherwise agreed in writing by the MMO.

Completion of construction

23.—(1) The undertaker must submit a close out report to the MMO, MCA, UKHO, the relevant statutory nature conservation body and Trinity House within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following details—

- (a) the final number of installed wind turbine generators;
- (b) the installed wind turbine generator parameters relevant for ornithological collision risk modelling;
- (c) as built plans;
- (d) latitude and longitude coordinates of the centre point of the location for each wind turbine generator and the offshore accommodation platform provided as Geographical Information System data referenced to WGS84 datum;
- (e) latitude and longitude coordinates of the array cable routes provided as Geographical Information System data referenced to WGS84 datum; and
- (f) the location, volume and area of cable protection.

(2) Following completion of construction, no further construction activities can be undertaken under this licence, with the exception of the deployment of cable protection.

(3) For any subsequent deployments of cable protection following completion of construction, the undertaker must submit an updated close out report not more than four months following deployment of the cable protection.

Maintenance reporting

24.—(1) An annual maintenance report must be submitted to the MMO in writing within three months following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 4 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within three months of that date, a consolidated maintenance report, which will—

- (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition 24(1) of this licence; and
- (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Piling restriction for spawning herring

25.—(1) — No piling activity may be undertaken within the spawning herring piling restriction area during the herring spawning season, unless otherwise approved in writing by the MMO.

(2) In this condition:

- (a) “herring spawning season” means 1 September and 16 October inclusive;
- (b) “spawning herring piling restriction area” means the area identified as the spawning herring piling restriction area within the spawning herring piling restriction plan; and
- (c) “spawning herring piling restriction plan” means the plan certified as the spawning herring piling restriction plan by the Secretary of State for the purposes of the Order under article.

SCHEDULE 11

Article 32

Deemed licence under the 2009 Act – offshore transmission assets

PART 1

Licensed marine activities

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Offshore Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017;

“Annex 1 reef” means a reef of a type listed in Annex 1 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised scheme” means Work Nos. 2 to 8 and 11 described in paragraph 3 of Part 1 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

“cable crossings” means the crossing of existing sub-sea cables or pipelines or other existing infrastructure by cable circuits authorised by this Order together with physical protection measures including cable protection;

“cable protection” means measures to protect cables from physical damage including the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

“commence” means the first carrying out of any licensed marine activities authorised by this licence, save for operations consisting of offshore preparation works and the words “commencement” and “commenced” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands, B75 7RL and any successor body to its functions;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“Environment Agency” means the non-departmental public body of that name created by section 1 of the Environment Act 1995;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“European offshore marine site” has the meaning given in regulation 18 of the 2017 Offshore Regulations;

“European site” has the meaning given in regulation 27 of the 2017 Offshore Regulations;

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“Historic England” means the Historic Buildings and Monuments Commission for England;

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“in principle Southern North Sea SAC Site Integrity Plan” means the document certified as the in principle Southern North Sea SAC Site Integrity Plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“interlink cable” means the cables comprised within Work No. 4 that link the offshore transformer substations to each other and to the offshore accommodation platform;

“intertidal area” means the area between MHWS and MLWS;

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“LAT” means lowest astronomical tide;

“licence 1 (generation)” means the licence set out in Schedule 10 (deemed licence under the 2009 Act – generation assets);

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the offshore works, to

the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” means the average height of all low waters above Chart Datum;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“monopile foundation” means a steel pile, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“offshore accommodation platform” means a structure attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing housing accommodation, storage, workshop, auxiliary equipment and facilities for operating, maintaining and controlling the wind turbine generators and offshore electrical installations;

“offshore electrical installations” means the small offshore transformer substations, the large offshore transformer substations, and the offshore reactive compensation platforms forming part of the authorised scheme;

“offshore Order limits” means the limits shown on the works plans within which the authorised scheme may be carried out;

“offshore preparation works” means surveys and monitoring seaward of MHWS undertaken prior to the commencement of construction to prepare for construction;

“offshore reactive compensation platform” means a structure attached to the seabed by means of a foundation, with one or more decks (including bird deterrents) housing electrical reactors and switchgear for the purpose of the efficient transfer of power in the course of HVAC transmission by providing reactive compensation;

“offshore reactive compensation platform design principles statement” means the document certified as the offshore reactive compensation platform design principles statement by the Secretary of State for the purposes of the Order under article 41;

“offshore transformer substation” means a structure attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, radar and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“the Order” means the Outer Dowsing Offshore Wind Farm Order 202[*];

“outline biogenic reef mitigation plan” means the document certified as the outline biogenic reef mitigation plan by the Secretary of State for the purposes of the Order under article 41;

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of the Order under article 41;

“outline fisheries liaison and coexistence plan” means the document certified as the outline fisheries liaison and coexistence plan by the Secretary of State for the purposes of the Order under article 41;

“outline marine mammal mitigation protocol (piling)” means the document certified as the outline marine mammal mitigation protocol (piling) by the Secretary of State for the purposes of the Order under article 41;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order under article 41;

“outline offshore reactive compensation platform lighting management plan” means the document certified as the outline offshore reactive compensation platform lighting management plan by the Secretary of State for the purposes of the Order under article 41;

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State for the purposes of the Order under article 41;

“outline scour protection and cable protection management plan” means the document certified as the outline scour protection and cable protection management plan by the Secretary of State for the purposes of the Order under article 41;

“outline vessel management plan” means the document certified as the outline vessel management plan by the Secretary of State for the purposes of the Order under article 41;

“outline marine archaeological written scheme of investigation” means the document certified as the outline marine archaeological written scheme of investigation by the Secretary of State for the purposes of the Order under article 41;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“pin pile jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“relevant site” means a European offshore marine site or a European site;

“SAC” means special area of conservation;

“statutory historic body” means Historic England or its successor in function;

“statutory nature conservation body” means the appropriate nature conservation body as defined in regulation 5 of the 2017 Regulations;

“suction bucket” means large diameter steel cylindrical shells which penetrate the seabed assisted by a hydrostatic pressure differential for securing steel jacket foundations;

“suction bucket jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means GT R4 Limited (company number 13281221);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“Work No. 12” means up to four underground cable circuits and up to six associated cable ducts; and

“works plans” means the plans certified as the works plans onshore and works plans offshore by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.).

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

- (3) Unless otherwise indicated—
- (a) all times are taken to be Greenwich Mean Time (GMT);
 - (b) all coordinates are taken to be latitude and longitude degrees and minutes to two decimal places.
- (4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—
- (a) Marine Management Organisation
Marine Licensing Team
Lancaster House Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH
Tel: 0300 123 1032;
 - (b) Marine Management Organisation (local office)
CEFAS Building
Pakefield Road
Lowestoft
NR33 0HT
Tel: 0208 026 6094;
 - (c) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900;
 - (d) The United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900;
 - (e) Maritime and Coastguard Agency
UK Technical Services Navigation
Spring Place 105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2426/2433
Email: navigationsafety@mcga.gov.uk;
 - (f) Natural England
4th Floor, Foss House
1-2 Peasholme Green
York
YO1 7PX
Tel: 0300 060 3900;
 - (g) Historic England

The Foundry
82 Granville Street
Birmingham
B1 2LH
Tel: 0121 625 6888

2. Subject to the licence conditions at Part 2, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works and cable laying preparation works;
- (d) debris clearance works;
- (e) boulder clearance works either by displacement ploughing or subsea grab technique or other equivalent method;
- (f) the removal of out of service cables;
- (g) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (h) removal of static fishing gear; and
- (i) the disposal of up to 18,381,000 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works, sandwave clearance, boulder clearance works and excavation of trenchless technique exit pits at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS (some of which may alternatively be disposed under licence 1 (generation)).

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 2— up to one offshore accommodation platform fixed to the seabed by either monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations (which may alternatively be constructed under licence 1 (generation));

Work No. 3—

- (a) up to four small offshore transformer substations each fixed to the seabed by monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations; or
- (b) up to two large offshore transformer substations each fixed to the seabed by monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations;

Work No. 4— a network of interlink cables between the offshore transformer substations comprised within Work No. 3 and between the offshore transformer substations and the offshore accommodation platform comprised within Work No. 2, for the transmission of electricity and electronic communications, including one or more cable crossings (which may alternatively be constructed under licence 1 (generation), in whole or in part);

Work No. 5— up to four cable circuits between Work No.3 and Work No.7, and between Work No.7 and Work No.11 or between Work No.3 and Work No.11 consisting of offshore export cables along routes within the Order limits seaward of MLWS including one or more cable crossings;

Work No. 6— up to six temporary trenchless technique exit pits;

Work No. 7— up to two offshore reactive compensation platforms fixed to the seabed by monopile, pin pile jacket or suction bucket jacket foundations;

Work No. 8— a temporary work area associated with Work Nos. 2, 3, 4, 5, 6, 7, 9, 10 and 11 for vessels to carry out anchoring and positioning, and for the wet storage of construction materials;

Work No. 11— landfall connection works consisting of up to four underground cable circuits and up to six associated cable ducts to the works comprised within Work No. 12;

In connection with such Work Nos. 2 to 8 and 11 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as but not limited to the placement of rock, split pipe system, and/or mattresses;
- (c) cable crossings;
- (d) dredging;
- (e) the removal of material from the seabed required for the construction of Work Nos. 2 to 8 and 11 and the disposal of inert material of natural origin and dredged material within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation works (such as sandwave clearance and boulder clearance) and excavation of trenchless technique exit pits; and
- (f) removal of static fishing equipment.

In connection with such Work Nos. 2 to 8 and 11, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised scheme;
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (c) buoys such as wave buoys and LiDAR buoys used for measurement purposes.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works, cable preparation works and sandwave clearance works and excavation of trenchless technique exit pits;
- (g) weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and
- (h) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
88	53° 15' 23.267" N	000° 19' 43.506" E
89	53° 15' 23.609" N	000° 19' 44.116" E
90	53° 15' 23.996" N	000° 19' 44.804" E
91	53° 15' 24.263" N	000° 19' 45.279" E

92	53° 15' 26.776" N	000° 19' 49.753" E
93	53° 15' 27.959" N	000° 19' 51.860" E
94	53° 15' 38.568" N	000° 20' 24.961" E
95	53° 15' 38.569" N	000° 20' 25.004" E
96	53° 15' 38.571" N	000° 20' 25.302" E
97	53° 15' 38.575" N	000° 20' 25.748" E
98	53° 15' 38.627" N	000° 20' 32.317" E
99	53° 15' 38.679" N	000° 20' 38.886" E
100	53° 15' 40.504" N	000° 24' 36.753" E
101	53° 15' 45.998" N	000° 27' 7.864" E
102	53° 15' 46.001" N	000° 27' 13.231" E
103	53° 15' 57.880" N	000° 27' 43.029" E
104	53° 16' 27.853" N	000° 29' 7.103" E
106	53° 17' 5.090" N	000° 30' 34.122" E
107	53° 17' 10.091" N	000° 30' 45.655" E
108	53° 17' 11.076" N	000° 31' 48.010" E
109	53° 17' 40.520" N	000° 31' 55.865" E
110	53° 18' 59.574" N	000° 34' 58.518" E
114	53° 19' 30.814" N	000° 36' 36.504" E
115	53° 19' 52.317" N	000° 38' 4.115" E
116	53° 20' 5.544" N	000° 39' 33.663" E
117	53° 20' 5.352" N	000° 39' 34.675" E
120	53° 20' 3.608" N	000° 41' 5.490" E
121	53° 20' 6.501" N	000° 42' 12.019" E
122	53° 20' 13.168" N	000° 43' 51.174" E
123	53° 20' 16.468" N	000° 44' 20.272" E
124	53° 20' 26.562" N	000° 44' 49.621" E
125	53° 20' 39.175" N	000° 45' 11.903" E
126	53° 20' 46.964" N	000° 45' 18.483" E
127	53° 20' 52.069" N	000° 45' 21.845" E
128	53° 20' 53.926" N	000° 45' 22.442" E
129	53° 21' 21.774" N	000° 46' 25.825" E
130	53° 21' 25.062" N	000° 46' 38.723" E
131	53° 21' 26.153" N	000° 46' 53.091" E
134	53° 21' 31.588" N	000° 59' 17.599" E
135	53° 20' 38.347" N	001° 02' 14.919" E
136	53° 20' 32.026" N	001° 06' 59.054" E
137	53° 25' 18.619" N	001° 13' 18.173" E
138	53° 25' 30.060" N	001° 13' 18.317" E
139	53° 25' 30.054" N	001° 13' 35.555" E
140	53° 25' 55.049" N	001° 13' 35.555" E
141	53° 26' 5.529" N	001° 13' 18.763" E
142	53° 28' 51.538" N	001° 13' 20.848" E
143	53° 28' 51.539" N	001° 13' 20.848" E
144	53° 28' 27.088" N	001° 10' 54.113" E
145	53° 28' 40.336" N	001° 10' 32.794" E
146	53° 29' 37.647" N	001° 09' 0.491" E
147	53° 29' 37.332" N	001° 06' 3.730" E
148	53° 29' 19.041" N	001° 03' 53.183" E
149	53° 32' 32.232" N	001° 00' 59.093" E

150	53° 34' 31.492" N	001° 04' 32.616" E
151	53° 36' 34.077" N	001° 08' 26.916" E
152	53° 39' 12.689" N	001° 28' 43.588" E
153	53° 32' 3.757" N	001° 32' 46.680" E
154	53° 30' 57.848" N	001° 26' 4.442" E
155	53° 30' 57.847" N	001° 26' 4.443" E
156	53° 30' 41.451" N	001° 26' 4.344" E
157	53° 28' 8.999" N	001° 20' 25.101" E
158	53° 27' 40.033" N	001° 19' 34.731" E
159	53° 25' 5.940" N	001° 15' 7.257" E
160	53° 24' 46.824" N	001° 14' 57.503" E
161	53° 19' 31.608" N	001° 08' 0.786" E
162	53° 19' 24.645" N	001° 07' 36.669" E
163	53° 19' 32.549" N	001° 01' 47.090" E
164	53° 20' 25.533" N	000° 58' 51.469" E
165	53° 20' 23.532" N	000° 54' 14.849" E
166	53° 20' 17.139" N	000° 54' 1.469" E
167	53° 20' 23.390" N	000° 53' 56.111" E
174	53° 20' 20.128" N	000° 47' 11.924" E
175	53° 20' 7.723" N	000° 46' 44.092" E
176	53° 20' 7.224" N	000° 46' 18.376" E
177	53° 19' 55.934" N	000° 46' 17.647" E
178	53° 19' 16.741" N	000° 44' 49.770" E
179	53° 19' 14.408" N	000° 44' 37.520" E
180	53° 19' 10.983" N	000° 41' 29.891" E
181	53° 19' 10.110" N	000° 41' 14.849" E
189	53° 18' 45.400" N	000° 38' 11.684" E
190	53° 18' 41.693" N	000° 37' 50.173" E
191	53° 18' 35.812" N	000° 37' 24.430" E
192	53° 18' 29.442" N	000° 37' 5.808" E
193	53° 18' 2.522" N	000° 35' 59.804" E
195	53° 15' 50.420" N	000° 30' 57.424" E
198	53° 14' 39.608" N	000° 27' 47.363" E
199	53° 14' 35.060" N	000° 25' 16.597" E
200	53° 14' 33.873" N	000° 25' 11.876" E
201	53° 14' 33.575" N	000° 23' 39.547" E
202	53° 14' 33.585" N	000° 23' 28.949" E
203	53° 14' 33.002" N	000° 23' 11.567" E
204	53° 14' 32.153" N	000° 22' 59.859" E
205	53° 14' 31.408" N	000° 21' 15.880" E
206	53° 14' 31.378" N	000° 21' 11.732" E
207	53° 14' 31.330" N	000° 21' 5.095" E
208	53° 14' 31.327" N	000° 21' 4.768" E
209	53° 14' 58.072" N	000° 20' 10.457" E
210	53° 14' 59.426" N	000° 20' 7.707" E
211	53° 15' 0.149" N	000° 20' 6.239" E
212	53° 15' 0.842" N	000° 20' 4.832" E
213	53° 15' 1.277" N	000° 20' 3.947" E
214	53° 15' 1.277" N	000° 20' 3.945" E
215	53° 15' 1.296" N	000° 20' 3.751" E

216	53° 15' 1.373" N	000° 20' 2.965" E
217	53° 15' 1.401" N	000° 20' 2.668" E
218	53° 15' 1.440" N	000° 20' 2.267" E
219	53° 15' 1.457" N	000° 20' 2.096" E
220	53° 15' 1.487" N	000° 20' 1.785" E
221	53° 15' 1.527" N	000° 20' 1.379" E
222	53° 15' 1.564" N	000° 20' 0.999" E
223	53° 15' 1.735" N	000° 19' 59.239" E
224	53° 15' 1.800" N	000° 19' 58.564" E
225	53° 15' 1.998" N	000° 19' 56.531" E
226	53° 15' 2.022" N	000° 19' 56.279" E
227	53° 15' 2.103" N	000° 19' 55.451" E
228	53° 15' 2.274" N	000° 19' 53.691" E
411	53° 15' 22.830" N	000° 19' 42.736" E
412	53° 15' 23.143" N	000° 19' 43.292" E
413	53° 15' 23.267" N	000° 19' 43.506" E
434	53° 18' 29.432" N	000° 37' 5.779" E
435	53° 20' 1.205" N	000° 46' 17.987" E
436	53° 19' 16.177" N	000° 35' 36.926" E
437	53° 15' 2.277" N	000° 19' 53.661" E
438	53° 15' 2.314" N	000° 19' 53.650" E
439	53° 15' 2.347" N	000° 19' 53.641" E
440	53° 15' 2.502" N	000° 19' 53.598" E
441	53° 15' 2.627" N	000° 19' 53.555" E
442	53° 15' 2.774" N	000° 19' 53.498" E
443	53° 15' 2.832" N	000° 19' 53.475" E
444	53° 15' 2.917" N	000° 19' 53.440" E
445	53° 15' 2.958" N	000° 19' 53.421" E
446	53° 15' 3.001" N	000° 19' 53.401" E
447	53° 15' 3.135" N	000° 19' 53.330" E
448	53° 15' 3.258" N	000° 19' 53.259" E
449	53° 15' 3.414" N	000° 19' 53.176" E
450	53° 15' 3.517" N	000° 19' 53.114" E
451	53° 15' 3.751" N	000° 19' 52.983" E
452	53° 15' 3.890" N	000° 19' 52.903" E
453	53° 15' 4.030" N	000° 19' 52.824" E
454	53° 15' 4.075" N	000° 19' 52.797" E
455	53° 15' 4.216" N	000° 19' 52.714" E
456	53° 15' 4.313" N	000° 19' 52.654" E
457	53° 15' 4.377" N	000° 19' 52.616" E
458	53° 15' 4.452" N	000° 19' 52.568" E
459	53° 15' 4.520" N	000° 19' 52.522" E
460	53° 15' 4.607" N	000° 19' 52.466" E
461	53° 15' 4.667" N	000° 19' 52.427" E
462	53° 15' 4.832" N	000° 19' 52.321" E
463	53° 15' 4.968" N	000° 19' 52.229" E
464	53° 15' 5.118" N	000° 19' 52.137" E
465	53° 15' 5.134" N	000° 19' 52.127" E
466	53° 15' 5.367" N	000° 19' 51.997" E
467	53° 15' 5.475" N	000° 19' 51.942" E

468	53° 15' 5.558" N	000° 19' 51.902" E
469	53° 15' 5.786" N	000° 19' 51.807" E
470	53° 15' 5.866" N	000° 19' 51.781" E
471	53° 15' 5.957" N	000° 19' 51.747" E
472	53° 15' 6.081" N	000° 19' 51.708" E
473	53° 15' 6.170" N	000° 19' 51.674" E
474	53° 15' 6.338" N	000° 19' 51.625" E
475	53° 15' 6.482" N	000° 19' 51.586" E
476	53° 15' 6.583" N	000° 19' 51.551" E
477	53° 15' 6.657" N	000° 19' 51.529" E
478	53° 15' 6.729" N	000° 19' 51.509" E
479	53° 15' 6.892" N	000° 19' 51.456" E
480	53° 15' 7.093" N	000° 19' 51.388" E
481	53° 15' 7.199" N	000° 19' 51.354" E
482	53° 15' 7.283" N	000° 19' 51.324" E
483	53° 15' 7.306" N	000° 19' 51.316" E
484	53° 15' 7.381" N	000° 19' 51.292" E
485	53° 15' 7.531" N	000° 19' 51.238" E
486	53° 15' 7.767" N	000° 19' 51.161" E
487	53° 15' 7.872" N	000° 19' 51.120" E
488	53° 15' 7.935" N	000° 19' 51.094" E
489	53° 15' 8.059" N	000° 19' 51.053" E
490	53° 15' 8.155" N	000° 19' 51.017" E
491	53° 15' 8.224" N	000° 19' 50.994" E
492	53° 15' 8.375" N	000° 19' 50.930" E
493	53° 15' 8.487" N	000° 19' 50.889" E
494	53° 15' 8.608" N	000° 19' 50.835" E
495	53° 15' 8.723" N	000° 19' 50.786" E
496	53° 15' 8.805" N	000° 19' 50.749" E
497	53° 15' 8.862" N	000° 19' 50.726" E
498	53° 15' 9.100" N	000° 19' 50.615" E
499	53° 15' 9.262" N	000° 19' 50.535" E
500	53° 15' 9.263" N	000° 19' 50.534" E
501	53° 15' 9.403" N	000° 19' 50.463" E
502	53° 15' 9.498" N	000° 19' 50.419" E
503	53° 15' 9.534" N	000° 19' 50.405" E
504	53° 15' 9.579" N	000° 19' 50.387" E
505	53° 15' 9.675" N	000° 19' 50.341" E
506	53° 15' 9.704" N	000° 19' 50.329" E
507	53° 15' 9.805" N	000° 19' 50.293" E
508	53° 15' 9.904" N	000° 19' 50.253" E
509	53° 15' 10.013" N	000° 19' 50.216" E
510	53° 15' 10.087" N	000° 19' 50.188" E
511	53° 15' 10.240" N	000° 19' 50.139" E
512	53° 15' 10.401" N	000° 19' 50.085" E
513	53° 15' 10.485" N	000° 19' 50.061" E
514	53° 15' 10.577" N	000° 19' 50.028" E
515	53° 15' 10.658" N	000° 19' 50.004" E
516	53° 15' 10.703" N	000° 19' 49.988" E
517	53° 15' 10.829" N	000° 19' 49.955" E

518	53° 15' 10.933" N	000° 19' 49.929" E
519	53° 15' 11.079" N	000° 19' 49.885" E
520	53° 15' 11.175" N	000° 19' 49.860" E
521	53° 15' 11.308" N	000° 19' 49.818" E
522	53° 15' 11.448" N	000° 19' 49.776" E
523	53° 15' 11.566" N	000° 19' 49.738" E
524	53° 15' 11.658" N	000° 19' 49.710" E
525	53° 15' 11.961" N	000° 19' 49.605" E
526	53° 15' 12.076" N	000° 19' 49.562" E
527	53° 15' 12.171" N	000° 19' 49.530" E
528	53° 15' 12.271" N	000° 19' 49.489" E
529	53° 15' 12.317" N	000° 19' 49.471" E
530	53° 15' 12.397" N	000° 19' 49.441" E
531	53° 15' 12.538" N	000° 19' 49.378" E
532	53° 15' 12.664" N	000° 19' 49.324" E
533	53° 15' 12.955" N	000° 19' 49.183" E
534	53° 15' 13.064" N	000° 19' 49.125" E
535	53° 15' 13.154" N	000° 19' 49.079" E
536	53° 15' 13.344" N	000° 19' 48.977" E
537	53° 15' 13.582" N	000° 19' 48.844" E
538	53° 15' 13.680" N	000° 19' 48.787" E
539	53° 15' 13.809" N	000° 19' 48.708" E
540	53° 15' 13.922" N	000° 19' 48.643" E
541	53° 15' 14.037" N	000° 19' 48.573" E
542	53° 15' 14.107" N	000° 19' 48.533" E
543	53° 15' 14.215" N	000° 19' 48.466" E
544	53° 15' 14.332" N	000° 19' 48.396" E
545	53° 15' 14.411" N	000° 19' 48.347" E
546	53° 15' 14.483" N	000° 19' 48.306" E
547	53° 15' 14.504" N	000° 19' 48.294" E
548	53° 15' 14.660" N	000° 19' 48.199" E
549	53° 15' 14.768" N	000° 19' 48.139" E
550	53° 15' 14.882" N	000° 19' 48.070" E
551	53° 15' 14.970" N	000° 19' 48.022" E
552	53° 15' 15.186" N	000° 19' 47.896" E
553	53° 15' 15.251" N	000° 19' 47.862" E
554	53° 15' 15.320" N	000° 19' 47.821" E
555	53° 15' 15.494" N	000° 19' 47.723" E
556	53° 15' 15.608" N	000° 19' 47.663" E
557	53° 15' 15.813" N	000° 19' 47.563" E
558	53° 15' 15.887" N	000° 19' 47.525" E
559	53° 15' 16.110" N	000° 19' 47.423" E
560	53° 15' 16.269" N	000° 19' 47.353" E
561	53° 15' 16.379" N	000° 19' 47.298" E
562	53° 15' 16.474" N	000° 19' 47.255" E
563	53° 15' 16.565" N	000° 19' 47.208" E
564	53° 15' 16.617" N	000° 19' 47.184" E
565	53° 15' 16.648" N	000° 19' 47.170" E
566	53° 15' 16.749" N	000° 19' 47.119" E
567	53° 15' 16.845" N	000° 19' 47.066" E

568	53° 15' 16.948" N	000° 19' 47.013" E
569	53° 15' 17.039" N	000° 19' 46.961" E
570	53° 15' 17.216" N	000° 19' 46.856" E
571	53° 15' 17.444" N	000° 19' 46.715" E
572	53° 15' 17.535" N	000° 19' 46.651" E
573	53° 15' 17.693" N	000° 19' 46.551" E
574	53° 15' 17.915" N	000° 19' 46.399" E
575	53° 15' 18.027" N	000° 19' 46.326" E
576	53° 15' 18.099" N	000° 19' 46.276" E
577	53° 15' 18.193" N	000° 19' 46.216" E
578	53° 15' 18.277" N	000° 19' 46.156" E
579	53° 15' 18.426" N	000° 19' 46.056" E
580	53° 15' 18.524" N	000° 19' 45.993" E
581	53° 15' 18.678" N	000° 19' 45.887" E
582	53° 15' 18.815" N	000° 19' 45.788" E
583	53° 15' 18.955" N	000° 19' 45.694" E
584	53° 15' 19.048" N	000° 19' 45.626" E
585	53° 15' 19.112" N	000° 19' 45.581" E
586	53° 15' 19.192" N	000° 19' 45.521" E
587	53° 15' 19.262" N	000° 19' 45.471" E
588	53° 15' 19.346" N	000° 19' 45.406" E
589	53° 15' 19.450" N	000° 19' 45.329" E
590	53° 15' 19.518" N	000° 19' 45.275" E
591	53° 15' 19.587" N	000° 19' 45.224" E
592	53° 15' 19.653" N	000° 19' 45.171" E
593	53° 15' 19.743" N	000° 19' 45.102" E
594	53° 15' 19.825" N	000° 19' 45.036" E
595	53° 15' 20.110" N	000° 19' 44.792" E
596	53° 15' 20.223" N	000° 19' 44.699" E
597	53° 15' 20.338" N	000° 19' 44.597" E
598	53° 15' 20.425" N	000° 19' 44.524" E
599	53° 15' 20.512" N	000° 19' 44.445" E
600	53° 15' 20.577" N	000° 19' 44.391" E
601	53° 15' 20.688" N	000° 19' 44.300" E
602	53° 15' 20.931" N	000° 19' 44.091" E
603	53° 15' 21.014" N	000° 19' 44.017" E
604	53° 15' 21.063" N	000° 19' 43.973" E
605	53° 15' 21.293" N	000° 19' 43.772" E
606	53° 15' 21.374" N	000° 19' 43.698" E
607	53° 15' 21.696" N	000° 19' 43.424" E
608	53° 15' 21.842" N	000° 19' 43.305" E
609	53° 15' 21.923" N	000° 19' 43.246" E
610	53° 15' 22.056" N	000° 19' 43.144" E
611	53° 15' 22.160" N	000° 19' 43.068" E
612	53° 15' 22.220" N	000° 19' 43.030" E
613	53° 15' 22.298" N	000° 19' 42.977" E
614	53° 15' 22.351" N	000° 19' 42.945" E
615	53° 15' 22.428" N	000° 19' 42.897" E
616	53° 15' 22.545" N	000° 19' 42.828" E
617	53° 15' 22.586" N	000° 19' 42.806" E

618	53° 15' 22.712" N	000° 19' 42.742" E
619	53° 15' 22.812" N	000° 19' 42.696" E
620	53° 15' 22.833" N	000° 19' 42.734" E
621	53° 15' 22.830" N	000° 19' 42.736" E

6. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes) of the 2004 Act, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to the details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

PART 2

Conditions

Design parameters

1.—(1) The total number of offshore accommodation platforms forming part of the authorised scheme and the authorised scheme in licence 1 (generation) taken together must not exceed one (whether constructed under this licence or licence 1 (generation)).

(2) The total number of offshore electrical installations must not exceed six, consisting of a combination of no more than—

- (a) four small offshore transformer substations or two large offshore transformer substations; and
- (b) two offshore reactive compensation platforms.

(3) The dimensions of any small offshore transformer substation comprised within Work No. 3(a) (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised scheme must not exceed—

- (a) 90 metres in height when measured from LAT;
- (b) 90 metres in length; and
- (c) 90 metres in width.

(4) The dimensions of any large offshore transformer substation comprised within Work No. 3(b) (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised scheme must not exceed—

- (a) 100 metres in height when measured from LAT;
- (b) 160 metres in length; and
- (c) 110 metres in width.

(5) The dimensions of any offshore reactive compensation platform (including auxiliary structures, such as a crane, but excluding masts, lightning protection, radar and antennae) forming part of the authorised scheme must not exceed—

- (a) 59.2 metres in height when measured from LAT;
- (b) 90 metres in length; and
- (c) 90 metres in width;

and any masts, lightning protection, radar and antennae forming part of any offshore reactive compensation platform must not exceed 79.2 metres in height when measured from LAT.

(6) The dimensions of the offshore accommodation platform forming part of the authorised scheme must not exceed—

- (a) 80.2 metres in height when measured from LAT;
- (b) 84 metres in length; and
- (c) 84 metres in width.

(7) No offshore transformer substation or offshore accommodation platform forming part of the authorised scheme is to be erected within the area hatched black and marked “offshore restricted build area” on the works plans, whose coordinates are specified below and shown on the offshore order limits and grid coordinates plan—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
150	53° 34' 31.492" N	001° 04' 32.616" E
151	53° 36' 34.077" N	001° 08' 26.916" E
152	53° 39' 12.689" N	001° 28' 43.588" E
845	53° 33' 59.545" N	001° 03' 36.079" E
846	53° 33' 59.382" N	001° 03' 35.074" E
847	53° 34' 09.033" N	001° 03' 52.365" E
848	53° 34' 31.223" N	001° 04' 32.133" E
849	53° 36' 37.559" N	001° 19' 54.519" E
850	53° 38' 07.792" N	001° 29' 20.432" E
851	53° 34' 27.499" N	001° 06' 28.034" E

2.—(1) Offshore accommodation platform foundation structures forming part of the authorised scheme must be one of either monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(2) Offshore transformer substation foundation structures forming part of the authorised scheme must be monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(3) In respect of an offshore electrical installation and offshore accommodation platform—

- (a) no monopile foundation may have a diameter greater than 14 metres;
- (b) no gravity base structure foundation may exceed, at the level of the seabed—
 - (i) a length of 72 metres; or
 - (ii) a width of 36 metres;
- (c) no pin pile jacket foundation forming part of the authorised scheme may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than 24 pin piles per jacket foundation;
- (d) no suction bucket jacket foundation forming part of the authorised scheme may—
 - (i) have a suction bucket diameter of greater than 20 metres; or
 - (ii) employ more than eight suction buckets per jacket foundation;

(4) The total seabed footprint area for offshore accommodation platform foundations must not exceed—

(a) 2,600 square metres excluding scour protection; and

(b) 19,600 square metres including scour protection.

(5) The total seabed footprint area for offshore electrical installation foundations must not exceed—

(a) 15,600 square metres excluding scour protection; and

(b) 117,600 square metres including scour protection.

(6) Offshore reactive compensation platform foundation structures forming part of the authorised scheme must be monopile, pin pile jacket or suction bucket jacket foundations.

3.—(1) The total length of the cables forming part of the authorised scheme and the authorised scheme in licence 1 (generation) and the volume and area of their cable protection must not exceed the following (whether installed under this licence or licence 1 (generation))—

<i>Work No.</i>	<i>Length</i>	<i>Area of cable protection</i>	<i>Volume of cable protection</i>
Work No. 4 (interlink cables)	123.75km	406,438m ²	399,234m ³
Work Nos. 5 and 11 (offshore export cables)	440km	1,524,870m ²	1,457,579m ³

(2) The total number of cable crossings must not exceed—

(a) 16, in respect of the interlink cables comprised within Work No. 4; and

(b) 38, in respect of the offshore export cables comprised within Work No. 5

unless otherwise agreed with the MMO.

Maintenance of the authorised scheme

4.—(1) The undertaker may at any time maintain the authorised scheme, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Maintenance works include but are not limited to—

(a) major offshore electrical installation component or offshore accommodation platform replacement;

(b) painting and applying other coatings to offshore electrical installations or offshore accommodation platform;

(c) bird waste and marine growth removal;

(d) cable remedial burial;

(e) cable repairs and replacement;

(f) cable protection replenishment;

(g) access ladder and boat landing replacement;

(h) replacement of offshore electrical installation and accommodation platform anodes; and

(i) J-tube repair/replacement.

(4) Where the MMO's approval is required under sub-paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Vessels under the undertaker's control

5.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

6. Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notification and Inspection

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent variations to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 16; and
 - (ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 16;

(b) within 28 days of receipt of a copy of this licence those persons referred to in sub-paragraph (a) above must confirm receipt of this licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 16 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any offshore operations manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

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

- (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) as soon as reasonably practicable and no later than 24 hours after completion of construction of the authorised scheme.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least 14 days prior to the commencement of the licensed activities or any part of them advising of the start date of Work Nos. 3, 5, 6, 7 and 11, and to the extent that they are carried out under this licence, Work Nos. 2, 4 and 8, and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 13(1)(b). Copies of all notices must be provided to the MMO and UK Hydrographic Office within five days.

(10) The undertaker must notify the UK Hydrographic Office—

- (a) of commencement of the licensed activities at least 14 days prior to commencement;
- (b) of the progress of the licensed activities; and
- (c) of completion of construction of the licensed activities within 14 days of completion

in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, Kingfisher Information Service, the UK Hydrographic Office and regional fisheries organisations.

(12) In case of exposure of cables on or above the seabed, the undertaker must, within three days following identification of a cable exposure, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, MCA, Trinity House, UK Hydrographic Office and regional fisheries organisations within five days.

Aids to navigation

8.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan approved pursuant to condition 13(1)(i) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 7(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of structures

9.—(1) Except as otherwise required by Trinity House the undertaker must paint all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least Highest Astronomical Tide to a height as directed by Trinity House.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the remainder of the structures are painted submarine grey (colour code RAL 7035).

Aviation safety

10. The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the authorised scheme, in writing of the following information—

- (a) the date of the commencement of construction of the authorised scheme;
- (b) the date any offshore electrical installations are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any offshore electrical installations and offshore accommodation platform to be constructed;
- (e) the latitude and longitude of each offshore electrical installation and offshore accommodation platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised scheme. Copies of notifications must be provided to the MMO within five days of the notification to the Defence Infrastructure Organisation Safeguarding.

Chemicals, drilling and debris

11.—(1) Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations, sandwave clearance works and excavation of trenchless technique exit pits is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan approved under condition 13(1)(e)(i).

(10) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (0344 382 0580), and the UK Hydrographic Office email: navwarnings@btconnect.com.

(11) All dropped objects including those in sub-paragraph (10), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.

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

Notification of unauthorised deposits

12.—(1) If the master of a vessel determines that it is necessary to make an unauthorised deposit within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

13.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

(a) A design plan, which includes—

- (i) a plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be approved in writing by the MMO in consultation with Trinity House, the MCA, UKHO and the relevant statutory nature conservation body which shows—
 - (aa) the proposed location and choice of foundation of all offshore electrical installations and the offshore accommodation platform;
 - (bb) the grid coordinates of the centre point of the proposed location for each offshore electrical installation and offshore accommodation platform;
 - (cc) the length and arrangement of all cables comprising Work Nos. 5 and 11 and, to the extent that they are to be installed under this licence, Work No. 4;
 - (dd) the dimensions of all gravity base structure foundations;
 - (ee) the dimensions of all pin pile jacket foundations;
 - (ff) the dimensions of all suction bucket jacket foundations;
 - (gg) the dimensions of all monopile foundations;
 - (hh) the proposed layout of all offshore electrical installations and the offshore accommodation platform including any exclusion zones identified under condition 13(1)(g)(iv);

- (ii) a plan showing the indicative layout of all offshore electrical installations and the offshore accommodation platform including all exclusion zones (insofar as not shown in (ix) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under condition 13(1)(b)(iii); and
 - (jj) any exclusion zones/environmental micro-siting requirements; to ensure conformity with the description of Work Nos. 2 to 8 and 11 and compliance with conditions 1 to 12 above; and
 - (ii) details of the design of the offshore reactive compensation platform, which must accord with the principles set out in the offshore reactive compensation platform design principles statement.
- (b) A construction programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) an indicative written construction programme for all offshore electrical installations, the offshore accommodation platform and cables comprised in the works at paragraph 3 of Part 1 (licensed marine activities) of this licence (insofar as not shown in sub-paragraph (ii) above);
- (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 six months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
 - (ii) at least six months prior to construction, detail of construction monitoring;
 - (iii) at least six months prior to completion of construction, detail of post-construction (and operational) monitoring;
 unless otherwise agreed in writing with the MMO.
- (d) A construction method statement in accordance with the construction methods assessed in the environmental statement, to be submitted to the MMO at least six months prior to commencement of licensed activities, and including details of—
 - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works;
 - (ii) cable specification, installation and monitoring, in accordance with the outline cable specification and installation plan, to include—
 - (aa) technical specification of offshore cables below MHWS;
 - (bb) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or such similar assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
 - (cc) proposals for monitoring offshore cables and the status of cable protection during the operational lifetime of the authorised scheme which include a risk based approach to the management of unburied or shallow buried cables.
 - (iii) scour protection and cable protection management in accordance with the outline scour protection and cable protection management plan including details of the need,

- type, sources, quantity and installation methods for scour protection and cable protection, with details updated and resubmitted for approval if changes to it are proposed following cable laying operations;
- (iv) main contractors;
 - (v) vessels and vessels transit corridors; and
 - (vi) associated and ancillary works.
- (e) A project environmental management plan in accordance with the outline project environmental management plan covering the period of construction and operation to include details of—
- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
 - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
 - (v) a fisheries liaison and coexistence plan in accordance with the outline fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 7 and to address the interaction of the licensed activities with fishing activities;
 - (vi) a vessel management plan in accordance with the outline vessel management plan including details of vessel routing to and from construction sites and ports and to include a code of conduct for vessel operators; and
 - (vii) in the event that gravity base structure foundations are proposed to be used, a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised.
- (f) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the outline marine mammal mitigation protocol (piling), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body, to be submitted to the MMO at least six months prior to commencement of piling activities. The marine mammal mitigation protocol must include consideration of deployment of noise mitigation systems or noise abatement systems that will be utilised to manage sounds from those piling activities. The marine mammal mitigation protocol must include full details and justification for the mitigation chosen or excluded for deployment.
- (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 (and, if relevant, Lincolnshire County Council) to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;

- (v) monitoring of archaeological exclusion zones during and post construction, where required;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS (Online Access to the Index of archaeological investigationS) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (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 six months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
 - (i) An aids to navigation management plan to be approved in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 for the lifetime of the authorised scheme.
 - (j) A biogenic reef mitigation plan, in accordance with the outline biogenic reef mitigation plan.
 - (k) An offshore reactive compensation platform lighting management plan, in accordance with the outline offshore reactive compensation platform lighting management plan.
- (2) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed—
- (a) 6,600kJ in respect of monopile foundations; and
 - (b) 3,500kJ in respect of pin piles.
- (3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of archaeological investigation which is itself in accordance with the details set out in the outline written scheme of investigation (offshore), and which has been submitted to and approved by the MMO in consultation with the statutory historic body.

14.—(1) Any archaeological reports produced in accordance with condition 13(1)(g)(iii) are to be approved by the statutory historic body.

(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.

(3) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 13.

(4) Subject to sub-paragraph (6), 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.

(5) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 13, unless otherwise agreed in writing by the MMO.

(6) Where an application for approval is made under condition 13(1)(c), (d), (f) or (h), the MMO must determine the application for approval within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

Offshore safety management

15. No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

Reporting of engaged agents, contractors and vessels

16.—(1) The undertaker must provide the following information to the MMO, unless otherwise agreed in writing by the MMO—

- (a) the name, company number (if applicable), address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities, including the master’s name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Pre-construction monitoring and surveys

17.—(1) The undertaker must, in discharging condition 13(1)(c), submit details (which accord with the in principle monitoring plan) for written approval by the MMO in consultation with the relevant statutory nature conservation body of proposed pre-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format and content for a pre-construction baseline report; and

- (a) the survey proposals must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats in the parts of the Order limits in which it is proposed to carry out construction works;
- (b) a swath-bathymetry survey to IHO Order 1a standard that meets the requirements MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works;
- (c) any marine mammal monitoring required by the monitoring plan submitted in accordance with condition 13(1)(c); and

- (d) any ornithological monitoring required by the monitoring plan submitted in accordance with condition 13(1)(c).

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Construction monitoring

18.—(1) The undertaker must, in discharging condition 13(1)(c), submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation body of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The monitoring proposals must specify each survey's objectives.

(2) In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed collectively under this licence and under licence 1 (generation), unless otherwise agreed in writing by the MMO.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph (2) must be provided to the MMO within six weeks of the installation of the first four piled foundations of each piled foundation type (unless otherwise agreed with the MMO). The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the opinion of the MMO in consultation with the statutory nature conservation body, the assessment shows impacts significantly in excess of those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(4) The undertaker must carry out the monitoring approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(5) Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. An appropriate report must be submitted to the MMO, Trinity House and the MCA at the end each year of the construction period.

Post construction

19.—(1) The undertaker must, in discharging condition 13(1)(c), submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with relevant statutory nature conservation body of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position or will enable the validation or otherwise of key predictions in the environmental statement.

(2) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) within twelve months of completion of the licensed activities, a full sea floor coverage swath-bathymetry survey that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which construction works were

carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables have been buried or protected;

- (c) any marine mammal monitoring required by the monitoring plan submitted in accordance with condition 13(1)(c);
- (d) any ornithological monitoring required by the monitoring plan submitted in accordance with condition 13(1)(c); and
- (e) post-construction traffic monitoring, which includes vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of the authorised scheme, unless otherwise agreed in writing by the MMO. An appropriate report must be submitted to the MMO, Trinity House and the MCA at the end of each year of the three year period.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(4) Following installation of cables, the cable monitoring plan required under condition 13(1)(d)(ii)(cc) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

Reporting of impact pile driving

20.—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and
- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) “*Marine Noise Registry*” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) “*Forward Look*” and “*Close Out*” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

Deployment of cable protection

21. No cable protection granted by this licence may be deployed within the IDRBNR SAC after the construction period has ended. Any cable protection to be installed outside of the IDRBNR SAC following completion of construction in locations where cable protection was not installed during construction must be deployed within 10 years of completion of construction, unless otherwise agreed by the MMO in writing.

Southern North Sea Special Area of Conservation Site Integrity Plan (Piling)

22.—(1) No piling activities can begin until a Site Integrity Plan (SIP), which accords with the principles set out in the in principle Southern North Sea SAC Site Integrity Plan, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted to the MMO no later than six months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

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

(6) The MMO must determine an application for approval made under condition 22 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(7) The licensed activities must be carried out in accordance with the SIP approved under condition 22, unless otherwise agreed in writing by the MMO.

Completion of construction

23.—(1) The undertaker must submit a close out report to the MMO, MCA, UKHO, the relevant statutory nature conservation body and Trinity House within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following details—

- (a) as built plans;
- (b) latitude and longitude coordinates of the centre point of the location for each offshore transformer station, offshore reactive compensation platform and the offshore accommodation platform provided as Geographical Information System data referenced to WGS84 datum;
- (c) latitude and longitude coordinates of the offshore export cable route provided as Geographical Information System data referenced to WGS84 datum; and
- (d) the location, volume and area of cable protection.

(2) Following completion of construction, no further construction activities can be undertaken under this licence, with the exception of the deployment of cable protection.

(3) For any subsequent deployments of cable protection following completion of construction, the undertaker must submit an updated close out report not more than four months following deployment of the cable protection.

Maintenance reporting

24.—(1) —An annual maintenance report must be submitted to the MMO in writing within three months following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 4 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within three months of that date, a consolidated maintenance report, which will—

- (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition 24(1) of this licence; and
- (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Seasonal restriction

25.—(1) The undertaker must not carry out any offshore cable installation works or works associated with the installation of the offshore reactive compensation platforms seaward of mean high water springs within the Greater Wash SPA restriction area between 1 November to 31 March inclusive, unless otherwise approved in writing by the MMO, in consultation with the statutory nature conservation body.

(2) In this paragraph, the “Greater Wash SPA restriction area” means the site designated as the Greater Wash Special Protection Area and an additional area extending two kilometres beyond the boundary of the site designated as the Greater Wash Special Protection Area.

SCHEDULE 12

Article 32

Deemed licence under the 2009 Act – northern artificial nesting structure

1

PART 1

Licensed marine activities

1.—(1) In this licence—

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised scheme” means Work Nos. 8 and 9 described in paragraph 3 of Part 1 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

“commence” means the first carrying out of any licensed marine activities authorised by this licence, save for operations consisting of offshore preparation works and the words “commencement” and “commenced” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“Environment Agency” means the non-departmental public body of that name created by section 1 of the Environment Act 1995;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or

additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“in principle Southern North Sea SAC Site Integrity Plan” means the document certified as the in principle Southern North Sea SAC Site Integrity Plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“LAT” means lowest astronomical tide;

“licence 1 (generation)” means the licence set out in Schedule 10 (deemed licence under the 2009 Act – offshore transmission assets);

“licence 2 (transmission)” means the licence set out in Schedule 11 (deemed licence under the 2009 Act – offshore transmission assets);

“licence 4” means the licence set out in Schedule 13 (deemed licence under the 2009 Act – northern artificial nesting structure 2)

“licence 5” means the licence set out in Schedule 14 (deemed licence under the 2009 Act – southern artificial nesting structure 1)

“licence 6” means the licence set out in Schedule 15 (deemed licence under the 2009 Act – southern artificial nesting structure 2)

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the offshore works, to the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“offshore artificial nesting structure” means a structure attached to the seabed by means of a foundation, providing nesting facilities for birds;

“offshore Order limits” means the limits shown on the works plans within which the authorised scheme may be carried out;

“offshore preparation works” means surveys and monitoring seaward of MHWS undertaken prior to the commencement of construction to prepare for construction;

“offshore works” means Work Nos. 1 to 11 and any related associated development in connection with those works and ancillary works described in Schedule 1 part 1 and Schedule 1 part 2 of the Order respectively;

“the Order” means the Outer Dowsing Offshore Wind Farm Order 202[*];

“outline marine archaeological written scheme of investigation” means the document certified as the outline marine archaeological written scheme of investigation by the Secretary of State for the purposes of the Order under article 41;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order under article 41;

“outline marine mammal mitigation protocol (piling)” means the document certified as the outline marine mammal mitigation protocol (piling) by the Secretary of State for the purposes of this Order under article 41;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“pin pile jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“SAC” means special area of conservation;

“statutory nature conservation body” means the appropriate nature conservation body as defined in regulation 5 of the 2017 Regulations;

“suction bucket” means large diameter steel cylindrical shells which penetrate the seabed assisted by a hydrostatic pressure differential for securing steel jacket foundations;

“suction bucket jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means GT R4 Limited (company number 13281221);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“works plans” means the plans certified as the works plans onshore and works plans offshore by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.).

(2) reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all coordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

- (a) Marine Management Organisation
Marine Licensing Team
Lancaster House Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH
Tel: 0300 123 1032;
- (b) Marine Management Organisation (local office)
CEFAS Building
Pakefield Road
Lowestoft
NR33 0HT

- Tel: 0208 026 6094;
- (c) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900;
- (d) The United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900;
- (e) Maritime and Coastguard Agency
UK Technical Services Navigation
Spring Place 105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2426/2433
Email: navigationsafety@mcga.gov.uk;
- (f) Natural England
4th Floor, Foss House
1-2 Peasholme Green
York
YO1 7PX
Tel: 0300 060 3900;
- (g) Historic England
The Foundry
82 Granville Street
Birmingham
B1 2LH
Tel: 0121 625 6888.

2. Subject to the licence conditions at Part 2, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works;
- (d) debris clearance works;
- (e) boulder clearance works either by displacement ploughing or subsea grab technique or other equivalent method;
- (f) the removal of out of service cables;
- (g) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (h) removal of static fishing gear; and

- (i) the disposal of up to 36,300 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 8— a temporary work area associated with Work No. 9 for vessels to carry out anchoring and positioning, and for the wet storage of construction materials;

Work No. 9— an offshore artificial nesting structure;

In connection with such Work Nos. 8 and 9 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore artificial nesting structure;
- (b) dredging;
- (c) the removal of material from the seabed required for the construction of Work Nos. 9 and the disposal of inert material of natural origin and dredged material within the Order limits produced during construction drilling and seabed preparation for foundation works; and
- (d) removal of static fishing equipment.

In connection with such Work Nos. 8 and 9, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works;
- (g) weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and
- (h) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
415	53° 45' 33.891" N	001° 00' 32.907" E
416	53° 45' 4.594" N	001° 03' 26.056" E
417	53° 44' 36.965" N	001° 01' 37.843" E
418	53° 43' 49.104" N	000° 59' 30.164" E
419	53° 42' 55.282" N	000° 57' 43.981" E

420	53° 41' 29.957" N	000° 56' 3.720" E
421	53° 40' 23.371" N	000° 54' 7.750" E
422	53° 40' 29.385" N	000° 52' 22.939" E
423	53° 40' 36.281" N	000° 51' 30.886" E
424	53° 45' 43.118" N	000° 51' 54.642" E
425	53° 45' 14.743" N	000° 54' 25.985" E
426	53° 45' 27.752" N	000° 55' 46.378" E
427	53° 45' 58.939" N	000° 55' 49.294" E
428	53° 46' 23.766" N	000° 57' 46.036" E
430	53° 45' 6.151" N	000° 56' 50.100" E
431	53° 45' 28.354" N	000° 57' 29.801" E
432	53° 45' 51.883" N	000° 56' 52.331" E
433	53° 45' 29.676" N	000° 56' 12.629" E

6. This licence remains in force until the authorised scheme has been decommissioned.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to the details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

PART 2

Conditions

Design parameters

1.—(1) The dimensions of the offshore artificial nesting structure forming part of the authorised scheme must not exceed—

- (a) 60 metres in height when measured from LAT;
- (b) 23 metres in length; and
- (c) 23 metres in width.

(2) The offshore artificial nesting structure foundation structures forming part of the authorised scheme must be monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(3) In respect of the offshore artificial nesting structure—

- (a) no monopile foundation may have a diameter greater than eight metres;
- (b) no gravity base structure foundation may have a diameter at the level of the seabed greater than 50 metres;
- (c) no pin pile jacket foundation forming part of the authorised scheme may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than four pin piles per jacket foundation;

- (d) no suction bucket jacket foundation forming part of the authorised scheme may—
 - (i) have a suction bucket diameter of greater than ten metres; or
 - (ii) employ more than four suction buckets per jacket foundation;
- (4) The total seabed footprint area for the offshore artificial nesting structure foundations must not exceed—
 - (a) 2,000 square metres excluding scour protection; and
 - (b) 12,300 square metres including scour protection.
- (5) The total number of offshore artificial nesting structures forming part of the authorised scheme and the authorised schemes in licence 4 (northern artificial nesting structure 2) and/or licence 5 (southern artificial nesting structure 1) and/or licence 6 (southern artificial nesting structure 2) taken together must not exceed two.

Maintenance of the authorised scheme

- 2.—(1) The undertaker may at any time maintain the authorised scheme, except to the extent that this licence or an agreement made under this licence provides otherwise.
- (2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.
- (3) Maintenance works include but are not limited to—
 - (a) major offshore artificial nesting structure component replacement;
 - (b) offshore artificial nesting structure component repairs;
 - (c) painting and applying other coatings to the offshore artificial nesting structure;
 - (d) bird waste and marine growth removal;
 - (e) access ladder and boat ladder replacement;
- (4) Where the MMO's approval is required under sub-paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Vessels under the undertaker's control

- 3.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.
- (2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

- 4. Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notification and Inspection

- 5.—(1) The undertaker must ensure that—
 - (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent variations to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 13; and
 - (ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 13;

- (b) within 28 days of receipt of a copy of this licence those persons referred to in sub-paragraph (a) above must confirm receipt of this licence in writing to the MMO.
- (2) Only those persons and vessels notified to the MMO in accordance with condition 13 are permitted to carry out the licensed activities.
- (3) Copies of this licence must also be available for inspection at the following locations—
 - (a) the undertaker's registered address;
 - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
 - (c) on board each vessel or at the office of any offshore operations manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.
- (6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.
- (7) The Kingfisher Information Service of Seafish must be informed of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or part thereof by including the information in a notice via the Kingfisher Service of Seafish portal (<https://kingfisherbulletin.org/submit-notice>) and sent by email to kingfisher@seafish.co.uk—
 - (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
 - (b) as soon as reasonably practicable and no later than 24 hours after completion of construction of the authorised scheme.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least 14 days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 9, and to the extent that they are carried out under this licence, Work No. 8, and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 11(1)(b). Copies of all notices must be provided to the MMO and UK Hydrographic Office within five days.

(10) The undertaker must notify the UK Hydrographic Office—

- (a) of commencement of the licensed activities at least 14 days prior to commencement;
- (b) of the progress of the licensed activities; and
- (c) of completion of construction of the licensed activities within 14 days of completion

in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, Kingfisher Information Service, the UK Hydrographic Office and regional fisheries organisations.

Aids to navigation

6.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan approved pursuant to condition 11(1)(h) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 5(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of structures

7.—(1) Except as otherwise required by Trinity House the undertaker must paint all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least Highest Astronomical Tide to a height as directed by Trinity House.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the remainder of the structures are painted submarine grey (colour code RAL 7035).

Chemicals, drilling and debris

8.—(1) Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan approved under condition 11(1)(d)(i).

(10) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (0344 382 0580), and the UK Hydrographic Office email: navwarnings@btconnect.com.

(11) All dropped objects including those in sub-paragraph (10), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.

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

Notification of unauthorised deposits

9.—(1) If the master of a vessel determines that it is necessary to make an unauthorised deposit within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Aviation safety

10. The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

- (a) the date of the commencement of construction of the licensed activities;
- (b) the date the offshore artificial nesting structure is brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of the offshore artificial nesting structure to be constructed;
- (e) the latitude and longitude of the offshore artificial nesting structure to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the licensed activities. Copies of notifications must be provided to the MMO within five days of the notification to the Defence Infrastructure Organisation Safeguarding.

Pre-construction plans and documents

11.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be approved in writing by the MMO in consultation with Trinity House, the MCA, UKHO and the relevant statutory nature conservation body which shows—
 - (i) the proposed location and choice of foundation of the offshore artificial nesting structure;
 - (ii) the grid coordinates of the centre point of the proposed location for the offshore artificial nesting structure;
 - (iii) the dimensions of all foundations;
 - (iv) the proposed layout of the offshore artificial nesting structure to be constructed under this licence
 - (v) any exclusion zones/environmental micro-siting requirements;to ensure conformity with the description of Work Nos. 8 and 9 and compliance with conditions 1 to 9 above.
- (b) A construction programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) an indicative written construction programme for the offshore artificial nesting structure comprised in the works at paragraph 3 of Part 1 (licensed marine activities) of this licence (insofar as not shown in sub-paragraph (ii) above);
- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
 - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works;
 - (ii) scour protection management including details of the need, type, sources, quantity and installation methods for scour protection;
 - (iii) main contractors;
 - (iv) vessels and vessels transit corridors; and
 - (v) associated and ancillary works;
- (d) A project environmental management plan in accordance with the outline project environmental management plan covering the period of construction and operation to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
 - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements; and
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
- (e) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the outline marine mammal mitigation protocol (piling), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body, to be submitted to the MMO at least four months prior to commencement of piling

activities. The marine mammal mitigation protocol must include consideration of deployment of noise mitigation systems or noise abatement systems that will be utilised to manage sounds from those piling activities. The marine mammal mitigation protocol must include full details and justification for the mitigation chosen or excluded for deployment;

- (f) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least three months prior to commencement of operation of the licensed activities and to provide for review and resubmission every five years during the operational phase;
- (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 four months prior to commencement of the licensed activities and to the MMO at least three 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 to include—
 - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction, where required;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS (Online Access to the Index of Archaeological Investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;
- (h) An aids to navigation management plan to be approved in writing by the MMO, following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 6 for the lifetime of the authorised scheme.

(2) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 3,500kJ.

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of archaeological investigation which is itself in accordance with the details set out in the outline written scheme of investigation (offshore), and which has been submitted to and approved by the MMO in consultation with the statutory historic body.

12.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 11 must be submitted for approval at least three months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 11.

(3) Subject to sub-paragraph (5), the MMO must determine an application for approval made under condition 11 within a period of three months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 11, unless otherwise agreed in writing by the MMO.

(5) Where an application for approval is made under condition 11(1)(e), the MMO must determine the application for approval 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.

Reporting of engaged agents, contractors and vessels

13.—(1) The undertaker must provide the following information to the MMO, unless otherwise agreed in writing by the MMO—

- (a) the name, company number (if applicable), address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Reporting of impact pile driving

14.—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and
- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) “*Marine Noise Registry*” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) “*Forward Look*” and “*Close Out*” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

Southern North Sea Special Area of Conservation Site Integrity Plan (Piling)

15.—(1) No piling activities can begin until a Site Integrity Plan (SIP), which accords with the principles set out in the in principle Southern North Sea SAC Site Integrity Plan so far as relevant to the authorised scheme, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted to the MMO no later than four months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

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

(6) The MMO must determine an application for approval made under condition 15 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.

(7) The licensed activities must be carried out in accordance with the SIP approved under condition 15, unless otherwise agreed in writing by the MMO.

Maintenance reporting

16.—(1) An annual maintenance report must be submitted to the MMO in writing within three months following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 2 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within three months of that date, a consolidated maintenance report, which will—

- (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition 16(1) of this licence; and
- (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Piling restriction for spawning herring

17. No piling of any type is permitted between 1 September and 16 October each year, unless otherwise approved in writing by the MMO.

Deemed licence under the 2009 Act – northern artificial nesting structure

2

PART 1

Licensed marine activities

1.—(1) In this licence—

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised scheme” means Work Nos. 8 and 9 described in paragraph 3 of Part 1 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

“commence” means the first carrying out of any licensed marine activities authorised by this licence, save for operations consisting of offshore preparation works and the words “commencement” and “commenced” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“Environment Agency” means the non-departmental public body of that name created by section 1 of the Environment Act 1995;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“in principle Southern North Sea SAC Site Integrity Plan” means the document certified as the in principle Southern North Sea SAC Site Integrity Plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“LAT” means lowest astronomical tide;

“licence 1 (generation)” means the licence set out in Schedule 10 (deemed licence under the 2009 Act – offshore transmission assets);

“licence 2 (transmission)” means the licence set out in Schedule 11 (deemed licence under the 2009 Act – offshore transmission assets);

“licence 3” means the licence set out in Schedule 12 (deemed licence under the 2009 Act – northern artificial nesting structure 1)

“licence 5” means the licence set out in Schedule 14 (deemed licence under the 2009 Act – southern artificial nesting structure 1)

“licence 6” means the licence set out in Schedule 15 (deemed licence under the 2009 Act – southern artificial nesting structure 2)

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the offshore works, to the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“offshore artificial nesting structure” means a structure attached to the seabed by means of a foundation, providing nesting facilities for birds;

“offshore Order limits” means the limits shown on the works plans within which the authorised scheme may be carried out;

“offshore preparation works” means surveys and monitoring seaward of MHWS undertaken prior to the commencement of construction to prepare for construction;

“offshore works” means Work Nos. 1 to 11 and any related associated development in connection with those works and ancillary works described in Schedule 1 part 1 and Schedule 1 part 2 of the Order respectively;

“the Order” means the Outer Dowsing Offshore Wind Farm Order 202[*];

“outline marine archaeological written scheme of investigation” means the document certified as the outline marine archaeological written scheme of investigation by the Secretary of State for the purposes of the Order under article 41;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order under article 41;

“outline marine mammal mitigation protocol (piling)” means the document certified as the outline marine mammal mitigation protocol (piling) by the Secretary of State for the purposes of this Order under article 41;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“pin pile jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“SAC” means special area of conservation;

“statutory nature conservation body” means the appropriate nature conservation body as defined in regulation 5 of the 2017 Regulations;

“suction bucket” means large diameter steel cylindrical shells which penetrate the seabed assisted by a hydrostatic pressure differential for securing steel jacket foundations;

“suction bucket jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means GT R4 Limited (company number 13281221);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“works plans” means the plans certified as the works plans onshore and works plans offshore by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.).

(2) reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all coordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Marine Licensing Team
Lancaster House Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

CEFAS Building
Pakefield Road
Lowestoft
NR33 0HT
Tel: 0208 026 6094;

(c) Trinity House

Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

UK Technical Services Navigation
Spring Place 105 Commercial Road

Southampton
SO15 1EG
Tel: 020 3817 2426/2433
Email: navigationsafety@mcga.gov.uk;

(f) Natural England
4th Floor, Foss House
1-2 Peasholme Green
York
YO1 7PX
Tel: 0300 060 3900;

(g) Historic England
The Foundry
82 Granville Street
Birmingham
B1 2LH
Tel: 0121 625 6888.

2. Subject to the licence conditions at Part 2, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works;
- (d) debris clearance works;
- (e) boulder clearance works either by displacement ploughing or subsea grab technique or other equivalent method;
- (f) the removal of out of service cables;
- (g) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (h) removal of static fishing gear; and
- (i) the disposal of up to 36,300 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 8— a temporary work area associated with Work No. 9 for vessels to carry out anchoring and positioning, and for the wet storage of construction materials;

Work No. 9— an offshore artificial nesting structure;

In connection with such Work Nos. 8 and 9 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore artificial nesting structure;
- (b) dredging;

- (c) the removal of material from the seabed required for the construction of Work Nos. 9 and the disposal of inert material of natural origin and dredged material within the Order limits produced during construction drilling and seabed preparation for foundation works; and
- (d) removal of static fishing equipment.

In connection with such Work Nos. 8 and 9, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works;
- (g) weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and
- (h) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
415	53° 45' 33.891" N	001° 00' 32.907" E
416	53° 45' 4.594" N	001° 03' 26.056" E
417	53° 44' 36.965" N	001° 01' 37.843" E
418	53° 43' 49.104" N	000° 59' 30.164" E
419	53° 42' 55.282" N	000° 57' 43.981" E
420	53° 41' 29.957" N	000° 56' 3.720" E
421	53° 40' 23.371" N	000° 54' 7.750" E
422	53° 40' 29.385" N	000° 52' 22.939" E
423	53° 40' 36.281" N	000° 51' 30.886" E
424	53° 45' 43.118" N	000° 51' 54.642" E
425	53° 45' 14.743" N	000° 54' 25.985" E
426	53° 45' 27.752" N	000° 55' 46.378" E
427	53° 45' 58.939" N	000° 55' 49.294" E
428	53° 46' 23.766" N	000° 57' 46.036" E
430	53° 45' 6.151" N	000° 56' 50.100" E
431	53° 45' 28.354" N	000° 57' 29.801" E
432	53° 45' 51.883" N	000° 56' 52.331" E
433	53° 45' 29.676" N	000° 56' 12.629" E

6. This licence remains in force until the authorised scheme has been decommissioned.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to the details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

PART 2

Conditions

Design parameters

1.—(1) The dimensions of the offshore artificial nesting structure forming part of the authorised scheme must not exceed—

- (a) 60 metres in height when measured from LAT;
- (b) 23 metres in length; and
- (c) 23 metres in width.

(2) The offshore artificial nesting structure foundation structures forming part of the authorised scheme must be monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(3) In respect of the offshore artificial nesting structure—

- (a) no monopile foundation may have a diameter greater than eight metres;
- (b) no gravity base structure foundation may have a diameter at the level of the seabed greater than 50 metres;
- (c) no pin pile jacket foundation forming part of the authorised scheme may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than four pin piles per jacket foundation;
- (d) no suction bucket jacket foundation forming part of the authorised scheme may—
 - (i) have a suction bucket diameter of greater than ten metres; or
 - (ii) employ more than four suction buckets per jacket foundation;

(4) The total seabed footprint area for the offshore artificial nesting structure foundations must not exceed—

- (a) 2,000 square metres excluding scour protection; and
- (b) 12,300 square metres including scour protection.

(5) The total number of offshore artificial nesting structures forming part of the authorised scheme and the authorised schemes in licence 3 (northern artificial nesting structure 1) and/or licence 5 (southern artificial nesting structure 1) and/or licence 6 (southern artificial nesting structure 2) taken together must not exceed two.

Maintenance of the authorised scheme

2.—(1) The undertaker may at any time maintain the authorised scheme, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Maintenance works include but are not limited to—

- (a) major offshore artificial nesting structure component replacement;
- (b) offshore artificial nesting structure component repairs;
- (c) painting and applying other coatings to the offshore artificial nesting structure;
- (d) bird waste and marine growth removal;
- (e) access ladder and boat ladder replacement;

(4) Where the MMO's approval is required under sub-paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Vessels under the undertaker's control

3.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

4. Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notification and Inspection

5.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent variations to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 13; and
 - (ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 13;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in sub-paragraph (a) above must confirm receipt of this licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 13 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any offshore operations manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

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

- (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) as soon as reasonably practicable and no later than 24 hours after completion of construction of the authorised scheme.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least 14 days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 9, and to the extent that they are carried out under this licence, Work No. 8, and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 11(1)(b). Copies of all notices must be provided to the MMO and UK Hydrographic Office within five days.

(10) The undertaker must notify the UK Hydrographic Office—

- (a) of commencement of the licensed activities at least 14 days prior to commencement;
- (b) of the progress of the licensed activities; and
- (c) of completion of construction of the licensed activities within 14 days of completion

in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, Kingfisher Information Service, the UK Hydrographic Office and regional fisheries organisations.

Aids to navigation

6.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and

(c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan approved pursuant to condition 11(1)(h) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 5(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of structures

7.—(1) Except as otherwise required by Trinity House the undertaker must paint all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least Highest Astronomical Tide to a height as directed by Trinity House.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the remainder of the structures are painted submarine grey (colour code RAL 7035).

Chemicals, drilling and debris

8.—(1) Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan approved under condition 11(1)(d)(i).

(10) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (0344 382 0580), and the UK Hydrographic Office email: navwarnings@btconnect.com.

(11) All dropped objects including those in sub-paragraph (10), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.

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

Notification of unauthorised deposits

9.—(1) If the master of a vessel determines that it is necessary to make an unauthorised deposit within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Aviation safety

10. The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

- (a) the date of the commencement of construction of the licensed activities;
- (b) the date the offshore artificial nesting structure is brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of the offshore artificial nesting structure to be constructed;
- (e) the latitude and longitude of the offshore artificial nesting structure to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the licensed activities. Copies of notifications must be provided to the MMO within five days of the notification to the Defence Infrastructure Organisation Safeguarding.

Pre-construction plans and documents

11.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be approved in writing by the MMO in consultation with Trinity House, the MCA, UKHO and the relevant statutory nature conservation body which shows—
 - (i) the proposed location and choice of foundation of the offshore artificial nesting structure;
 - (ii) the grid coordinates of the centre point of the proposed location for the offshore artificial nesting structure;

- (iii) the dimensions of all foundations;
 - (iv) the proposed layout of the offshore artificial nesting structure to be constructed under this licence
 - (v) any exclusion zones/environmental micro-siting requirements;
- to ensure conformity with the description of Work Nos. 8 and 9 and compliance with conditions 1 to 9 above;
- (b) A construction programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) an indicative written construction programme for the offshore artificial nesting structure comprised in the works at paragraph 3 of Part 1 (licensed marine activities) of this licence (insofar as not shown in sub-paragraph (ii) above);
 - (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
 - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works;
 - (ii) scour protection management including details of the need, type, sources, quantity and installation methods for scour protection;
 - (iii) main contractors;
 - (iv) vessels and vessels transit corridors; and
 - (v) associated and ancillary works;
 - (d) A project environmental management plan in accordance with the outline project environmental management plan covering the period of construction and operation to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
 - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements; and
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
 - (e) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the outline marine mammal mitigation protocol (piling), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body, to be submitted to the MMO at least four months prior to commencement of piling activities. The marine mammal mitigation protocol must include consideration of deployment of noise mitigation systems or noise abatement systems that will be utilised to manage sounds from those piling activities. The marine mammal mitigation protocol must include full details and justification for the mitigation chosen or excluded for deployment;
 - (f) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least three months prior to commencement of operation of the licensed activities and to provide for review and resubmission every five years during the operational phase;
 - (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 four months prior to commencement of the licensed activities and to the MMO at

least three 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 to include—

- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction, where required;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS (Online Access to the Index of Archaeological Investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;
- (h) An aids to navigation management plan to be approved in writing by the MMO, following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 6 for the lifetime of the authorised scheme.

(2) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 3,500kJ.

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of archaeological investigation which is itself in accordance with the details set out in the outline written scheme of investigation (offshore), and which has been submitted to and approved by the MMO in consultation with the statutory historic body.

12.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 11 must be submitted for approval at least three months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 11.

(3) Subject to sub-paragraph (5), the MMO must determine an application for approval made under condition 11 within a period of three months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 11, unless otherwise agreed in writing by the MMO.

(5) Where an application for approval is made under condition 11(1)(e), the MMO must determine the application for approval 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.

Reporting of engaged agents, contractors and vessels

13.—(1) The undertaker must provide the following information to the MMO, unless otherwise agreed in writing by the MMO—

- (a) the name, company number (if applicable), address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Reporting of impact pile driving

14.—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and
- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) "*Marine Noise Registry*" means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) "*Forward Look*" and "*Close Out*" requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

Southern North Sea Special Area of Conservation Site Integrity Plan (Piling)

15.—(1) No piling activities can begin until a Site Integrity Plan (SIP), which accords with the principles set out in the in principle Southern North Sea SAC Site Integrity Plan so far as relevant to the authorised scheme, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted to the MMO no later than four months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

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

(6) The MMO must determine an application for approval made under condition 15 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.

(7) The licensed activities must be carried out in accordance with the SIP approved under condition 15, unless otherwise agreed in writing by the MMO.

Maintenance reporting

16.—(1) An annual maintenance report must be submitted to the MMO in writing within three months following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 2 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within three months of that date, a consolidated maintenance report, which will—

- (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition 16(1) of this licence; and
- (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Piling restriction for spawning herring

17. No piling of any type is permitted between 1 September and 16 October each year, unless otherwise approved in writing by the MMO.

SCHEDULE 14

Article 32

Deemed licence under the 2009 Act – southern artificial nesting structure

1

PART 1

Licensed marine activities

1.—(1) In this licence—

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised scheme” means Work Nos. 8 and 9 described in paragraph 3 of Part 1 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

“commence” means the first carrying out of any licensed marine activities authorised by this licence, save for operations consisting of offshore preparation works and the words “commencement” and “commenced” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“Environment Agency” means the non-departmental public body of that name created by section 1 of the Environment Act 1995;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“in principle Southern North Sea SAC Site Integrity Plan” means the document certified as the in principle Southern North Sea SAC Site Integrity Plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“LAT” means lowest astronomical tide;

“licence 1 (generation)” means the licence set out in Schedule 10 (deemed licence under the 2009 Act – offshore transmission assets);

“licence 2 (transmission)” means the licence set out in Schedule 11 (deemed licence under the 2009 Act – offshore transmission assets);

“licence 3” means the licence set out in Schedule 12 (deemed licence under the 2009 Act – northern artificial nesting structure 1)

“licence 4” means the licence set out in Schedule 13 (deemed licence under the 2009 Act – northern artificial nesting structure 2)

“licence 6” means the licence set out in Schedule 15 (deemed licence under the 2009 Act – southern artificial nesting structure 2)

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the offshore works, to the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“offshore artificial nesting structure” means a structure attached to the seabed by means of a foundation, providing nesting facilities for birds;

“offshore Order limits” means the limits shown on the works plans within which the authorised scheme may be carried out;

“offshore preparation works” means surveys and monitoring seaward of MHWS undertaken prior to the commencement of construction to prepare for construction;

“offshore works” means Work Nos. 1 to 11 and any related associated development in connection with those works and ancillary works described in Schedule 1 part 1 and Schedule 1 part 2 of the Order respectively;

“the Order” means the Outer Dowsing Offshore Wind Farm Order 202[*];

“outline marine archaeological written scheme of investigation” means the document certified as the outline marine archaeological written scheme of investigation by the Secretary of State for the purposes of the Order under article 41;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order under article 41;

“outline marine mammal mitigation protocol (piling)” means the document certified as the outline marine mammal mitigation protocol (piling) by the Secretary of State for the purposes of this Order under article 41;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“pin pile jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“SAC” means special area of conservation;

“statutory nature conservation body” means the appropriate nature conservation body as defined in regulation 5 of the 2017 Regulations;

“suction bucket” means large diameter steel cylindrical shells which penetrate the seabed assisted by a hydrostatic pressure differential for securing steel jacket foundations;

“suction bucket jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means GT R4 Limited (company number 13281221);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“works plans” means the plans certified as the works plans onshore and works plans offshore by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.).

(2) reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

(a) all times are taken to be Greenwich Mean Time (GMT);

(b) all coordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

- Marine Licensing Team
 Lancaster House Hampshire Court
 Newcastle Business Park
 Newcastle upon Tyne
 NE4 7YH
 Tel: 0300 123 1032;
- (b) Marine Management Organisation (local office)
 CEFAS Building
 Pakefield Road
 Lowestoft
 NR33 0HT
 Tel: 0208 026 6094;
- (c) Trinity House
 Tower Hill
 London
 EC3N 4DH
 Tel: 020 7481 6900;
- (d) The United Kingdom Hydrographic Office
 Admiralty Way
 Taunton
 Somerset
 TA1 2DN
 Tel: 01823 337 900;
- (e) Maritime and Coastguard Agency
 UK Technical Services Navigation
 Spring Place 105 Commercial Road
 Southampton
 SO15 1EG
 Tel: 020 3817 2426/2433
 Email: navigationsafety@mcga.gov.uk;
- (f) Natural England
 4th Floor, Foss House
 1-2 Peasholme Green
 York
 YO1 7PX
 Tel: 0300 060 3900;
- (g) Historic England
 The Foundry
 82 Granville Street
 Birmingham
 B1 2LH
 Tel: 0121 625 6888.

2. Subject to the licence conditions at Part 2, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works;
- (d) debris clearance works;
- (e) boulder clearance works either by displacement ploughing or subsea grab technique or other equivalent method;
- (f) the removal of out of service cables;
- (g) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (h) removal of static fishing gear; and
- (i) the disposal of up to 36,300 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 8— a temporary work area associated with Work No. 9 for vessels to carry out anchoring and positioning, and for the wet storage of construction materials;

Work No. 9— an offshore artificial nesting structure;

In connection with such Work Nos. 8 and 9 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore artificial nesting structure;
- (b) dredging;
- (c) the removal of material from the seabed required for the construction of Work Nos. 9 and the disposal of inert material of natural origin and dredged material within the Order limits produced during construction drilling and seabed preparation for foundation works; and
- (d) removal of static fishing equipment.

In connection with such Work Nos. 8 and 9, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;

- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works;
- (g) weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and
- (h) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
72	53° 23' 28.968" N	001° 36' 50.876" E
73	53° 24' 16.718" N	001° 36' 29.872" E
74	53° 25' 20.282" N	001° 40' 32.493" E
75	53° 26' 57.794" N	001° 43' 24.853" E
76	53° 27' 49.898" N	001° 44' 31.828" E
77	53° 29' 41.527" N	001° 45' 49.905" E
78	53° 30' 58.889" N	001° 46' 11.727" E
79	53° 32' 26.981" N	001° 46' 26.029" E
80	53° 29' 31.665" N	001° 50' 59.277" E
81	53° 28' 40.456" N	001° 50' 35.937" E
82	53° 28' 15.252" N	001° 49' 10.015" E
83	53° 27' 55.714" N	001° 48' 37.205" E
84	53° 27' 22.142" N	001° 48' 29.033" E
85	53° 26' 51.166" N	001° 48' 21.158" E
86	53° 26' 12.576" N	001° 48' 8.060" E
87	53° 25' 38.653" N	001° 48' 8.593" E

6. This licence remains in force until the authorised scheme has been decommissioned.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to the details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

PART 2

Conditions

Design parameters

1.—(1) The dimensions of the offshore artificial nesting structure forming part of the authorised scheme must not exceed—

- (a) 60 metres in height when measured from LAT;
- (b) 23 metres in length; and
- (c) 23 metres in width.

(2) The offshore artificial nesting structure foundation structures forming part of the authorised scheme must be monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(3) In respect of the offshore artificial nesting structure—

- (a) no monopile foundation may have a diameter greater than eight metres;
- (b) no gravity base structure foundation may have a diameter at the level of the seabed greater than 50 metres;
- (c) no pin pile jacket foundation forming part of the authorised scheme may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than four pin piles per jacket foundation;
- (d) no suction bucket jacket foundation forming part of the authorised scheme may—
 - (i) have a suction bucket diameter of greater than ten metres; or
 - (ii) employ more than four suction buckets per jacket foundation;

(4) The total seabed footprint area for the offshore artificial nesting structure foundations must not exceed—

- (a) 2,000 square metres excluding scour protection; and
- (b) 12,300 square metres including scour protection.

(5) The total number of offshore artificial nesting structures forming part of the authorised scheme and the authorised schemes in licence 3 (northern artificial nesting structure 1) and/or licence 4 (northern artificial nesting structure 2) and/or licence 6 (southern artificial nesting structure 2) taken together must not exceed two.

Maintenance of the authorised scheme

2.—(1) The undertaker may at any time maintain the authorised scheme, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Maintenance works include but are not limited to—

- (a) major offshore artificial nesting structure component replacement;
- (b) offshore artificial nesting structure component repairs;
- (c) painting and applying other coatings to the offshore artificial nesting structure;
- (d) bird waste and marine growth removal;
- (e) access ladder and boat ladder replacement;

(4) Where the MMO's approval is required under sub-paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Vessels under the undertaker's control

3.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

4. Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notification and Inspection

5.—(1) The undertaker must ensure that—

(a) a copy of this licence (issued as part of the grant of the Order) and any subsequent variations to it is provided to—

(i) all agents and contractors notified to the MMO in accordance with condition 13; and

(ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 13;

(b) within 28 days of receipt of a copy of this licence those persons referred to in sub-paragraph (a) above must confirm receipt of this licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 13 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

(a) the undertaker's registered address;

(b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and

(c) on board each vessel or at the office of any offshore operations manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

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

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

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

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least 14 days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 9, and to the extent that they are carried out under this licence, Work No. 8, and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the

construction programme approved under condition 11(1)(b). Copies of all notices must be provided to the MMO and UK Hydrographic Office within five days.

(10) The undertaker must notify the UK Hydrographic Office—

- (a) of commencement of the licensed activities at least 14 days prior to commencement;
- (b) of the progress of the licensed activities; and
- (c) of completion of construction of the licensed activities within 14 days of completion

in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, Kingfisher Information Service, the UK Hydrographic Office and regional fisheries organisations.

Aids to navigation

6.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan approved pursuant to condition 11(1)(h) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 5(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of structures

7.—(1) Except as otherwise required by Trinity House the undertaker must paint all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least Highest Astronomical Tide to a height as directed by Trinity House.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the remainder of the structures are painted submarine grey (colour code RAL 7035).

Chemicals, drilling and debris

8.—(1) Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan approved under condition 11(1)(d)(i).

(10) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (0344 382 0580), and the UK Hydrographic Office email: navwarnings@btconnect.com.

(11) All dropped objects including those in sub-paragraph (10), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.

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

Notification of unauthorised deposits

9.—(1) If the master of a vessel determines that it is necessary to make an unauthorised deposit within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Aviation safety

10. The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

- (a) the date of the commencement of construction of the licensed activities;
- (b) the date the offshore artificial nesting structure is brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of the offshore artificial nesting structure to be constructed;
- (e) the latitude and longitude of the offshore artificial nesting structure to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the licensed activities. Copies of notifications must be provided to the MMO within five days of the notification to the Defence Infrastructure Organisation Safeguarding.

Pre-construction plans and documents

11.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be approved in writing by the MMO in consultation with Trinity House, the MCA, UKHO and the relevant statutory nature conservation body which shows—
 - (i) the proposed location and choice of foundation of the offshore artificial nesting structure;
 - (ii) the grid coordinates of the centre point of the proposed location for the offshore artificial nesting structure;
 - (iii) the dimensions of all foundations;
 - (iv) the proposed layout of the offshore artificial nesting structure to be constructed under this licence
 - (v) any exclusion zones/environmental micro-siting requirements;to ensure conformity with the description of Work Nos. 8 and 9 and compliance with conditions 1 to 9 above;
- (b) A construction programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) an indicative written construction programme for the offshore artificial nesting structure comprised in the works at paragraph 3 of Part 1 (licensed marine activities) of this licence (insofar as not shown in sub-paragraph (ii) above);
- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
 - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works;
 - (ii) scour protection management including details of the need, type, sources, quantity and installation methods for scour protection;
 - (iii) main contractors;
 - (iv) vessels and vessels transit corridors; and
 - (v) associated and ancillary works;

- (d) A project environmental management plan in accordance with the outline project environmental management plan covering the period of construction and operation to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
 - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements; and
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
- (e) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the outline marine mammal mitigation protocol (piling), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body, to be submitted to the MMO at least four months prior to commencement of piling activities. The marine mammal mitigation protocol must include consideration of deployment of noise mitigation systems or noise abatement systems that will be utilised to manage sounds from those piling activities. The marine mammal mitigation protocol must include full details and justification for the mitigation chosen or excluded for deployment;
- (f) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least three months prior to commencement of operation of the licensed activities and to provide for review and resubmission every five years during the operational phase;
- (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 four months prior to commencement of the licensed activities and to the MMO at least three 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 to include—
 - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction, where required;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS (Online AccesS to the Index of archaeological investigationS) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore

Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;

- (h) An aids to navigation management plan to be approved in writing by the MMO, following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 6 for the lifetime of the authorised scheme.

(2) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 3,500kJ.

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of archaeological investigation which is itself in accordance with the details set out in the outline written scheme of investigation (offshore), and which has been submitted to and approved by the MMO in consultation with the statutory historic body.

12.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 11 must be submitted for approval at least three months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 11.

(3) Subject to sub-paragraph (5), the MMO must determine an application for approval made under condition 11 within a period of three months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 11, unless otherwise agreed in writing by the MMO.

(5) Where an application for approval is made under condition 11(1)(e), the MMO must determine the application for approval 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.

Reporting of engaged agents, contractors and vessels

13.—(1) The undertaker must provide the following information to the MMO, unless otherwise agreed in writing by the MMO—

- (a) the name, company number (if applicable), address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Reporting of impact pile driving

14.—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;

- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and
 - (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements
- (2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.
- (3) For the purpose of this condition—
- (a) “*Marine Noise Registry*” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
 - (b) “*Forward Look*” and “*Close Out*” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

Southern North Sea Special Area of Conservation Site Integrity Plan (Piling)

15.—(1) No piling activities can begin until a Site Integrity Plan (SIP), which accords with the principles set out in the in principle Southern North Sea SAC Site Integrity Plan so far as relevant to the authorised scheme, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted to the MMO no later than four months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

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

(6) The MMO must determine an application for approval made under condition 15 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.

(7) The licensed activities must be carried out in accordance with the SIP approved under condition 15, unless otherwise agreed in writing by the MMO.

Maintenance reporting

16.—(1) An annual maintenance report must be submitted to the MMO in writing within three months following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 2 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within three months of that date, a consolidated maintenance report, which will—

- (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition 16(1) of this licence; and

- (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

SCHEDULE 15

Article 32

Deemed licence under the 2009 Act – southern artificial nesting structure

2

PART 1

Licensed marine activities

1.—(1) In this licence—

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised scheme” means Work Nos. 8 and 9 described in paragraph 3 of Part 1 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

“commence” means the first carrying out of any licensed marine activities authorised by this licence, save for operations consisting of offshore preparation works and the words “commencement” and “commenced” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“Environment Agency” means the non-departmental public body of that name created by section 1 of the Environment Act 1995;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“in principle Southern North Sea SAC Site Integrity Plan” means the document certified as the in principle Southern North Sea SAC Site Integrity Plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“LAT” means lowest astronomical tide;

“licence 1 (generation)” means the licence set out in Schedule 10 (deemed licence under the 2009 Act – offshore transmission assets);

“licence 2 (transmission)” means the licence set out in Schedule 11 (deemed licence under the 2009 Act – offshore transmission assets);

“licence 3” means the licence set out in Schedule 12 (deemed licence under the 2009 Act – northern artificial nesting structure 1)

“licence 4” means the licence set out in Schedule 13 (deemed licence under the 2009 Act – northern artificial nesting structure 2)

“licence 5” means the licence set out in Schedule 14 (deemed licence under the 2009 Act – southern artificial nesting structure 1)

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the offshore works, to the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“offshore artificial nesting structure” means a structure attached to the seabed by means of a foundation, providing nesting facilities for birds;

“offshore Order limits” means the limits shown on the works plans within which the authorised scheme may be carried out;

“offshore preparation works” means surveys and monitoring seaward of MHWS undertaken prior to the commencement of construction to prepare for construction;

“offshore works” means Work Nos. 1 to 11 and any related associated development in connection with those works and ancillary works described in Schedule 1 part 1 and Schedule 1 part 2 of the Order respectively;

“the Order” means the Outer Dowsing Offshore Wind Farm Order 202[*];

“outline marine archaeological written scheme of investigation” means the document certified as the outline marine archaeological written scheme of investigation by the Secretary of State for the purposes of the Order under article 41;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order under article 41;

“outline marine mammal mitigation protocol (piling)” means the document certified as the outline marine mammal mitigation protocol (piling) by the Secretary of State for the purposes of this Order under article 41;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“pin pile jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“SAC” means special area of conservation;

“statutory nature conservation body” means the appropriate nature conservation body as defined in regulation 5 of the 2017 Regulations;

“suction bucket” means large diameter steel cylindrical shells which penetrate the seabed assisted by a hydrostatic pressure differential for securing steel jacket foundations;

“suction bucket jacket foundation” means a jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel suction buckets and associated

equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means GT R4 Limited (company number 13281221);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“works plans” means the plans certified as the works plans onshore and works plans offshore by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.).

(2) reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all coordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Marine Licensing Team
Lancaster House Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

CEFAS Building
Pakefield Road
Lowestoft
NR33 0HT
Tel: 0208 026 6094;

(c) Trinity House

Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way
Taunton
Somerset
TA1 2DN

Tel: 01823 337 900;

- (e) Maritime and Coastguard Agency
UK Technical Services Navigation
Spring Place 105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2426/2433
Email: navigationsafety@mcga.gov.uk;

- (f) Natural England
4th Floor, Foss House
1-2 Peasholme Green
York
YO1 7PX
Tel: 0300 060 3900;

- (g) Historic England
The Foundry
82 Granville Street
Birmingham
B1 2LH
Tel: 0121 625 6888.

2. Subject to the licence conditions at Part 2, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works;
- (d) debris clearance works;
- (e) boulder clearance works either by displacement ploughing or subsea grab technique or other equivalent method;
- (f) the removal of out of service cables;
- (g) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (h) removal of static fishing gear; and
- (i) the disposal of up to 36,300 cubic metres of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works at disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 8— a temporary work area associated with Work No. 9 for vessels to carry out anchoring and positioning, and for the wet storage of construction materials;

Work No. 9— an offshore artificial nesting structure;

In connection with such Work Nos. 8 and 9 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the

relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore artificial nesting structure;
- (b) dredging;
- (c) the removal of material from the seabed required for the construction of Work Nos. 9 and the disposal of inert material of natural origin and dredged material within the Order limits produced during construction drilling and seabed preparation for foundation works; and
- (d) removal of static fishing equipment.

In connection with such Work Nos. 8 and 9, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works;
- (g) weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and
- (h) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
72	53° 23' 28.968" N	001° 36' 50.876" E
73	53° 24' 16.718" N	001° 36' 29.872" E
74	53° 25' 20.282" N	001° 40' 32.493" E
75	53° 26' 57.794" N	001° 43' 24.853" E
76	53° 27' 49.898" N	001° 44' 31.828" E
77	53° 29' 41.527" N	001° 45' 49.905" E
78	53° 30' 58.889" N	001° 46' 11.727" E
79	53° 32' 26.981" N	001° 46' 26.029" E
80	53° 29' 31.665" N	001° 50' 59.277" E
81	53° 28' 40.456" N	001° 50' 35.937" E
82	53° 28' 15.252" N	001° 49' 10.015" E
83	53° 27' 55.714" N	001° 48' 37.205" E
84	53° 27' 22.142" N	001° 48' 29.033" E
85	53° 26' 51.166" N	001° 48' 21.158" E
86	53° 26' 12.576" N	001° 48' 8.060" E
87	53° 25' 38.653" N	001° 48' 8.593" E

6. This licence remains in force until the authorised scheme has been decommissioned.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to the details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

PART 2

Conditions

Design parameters

1.—(1) The dimensions of the offshore artificial nesting structure forming part of the authorised scheme must not exceed—

- (a) 60 metres in height when measured from LAT;
- (b) 23 metres in length; and
- (c) 23 metres in width.

(2) The offshore artificial nesting structure foundation structures forming part of the authorised scheme must be monopile, gravity base structure, pin pile jacket or suction bucket jacket foundations.

(3) In respect of the offshore artificial nesting structure—

- (a) no monopile foundation may have a diameter greater than eight metres;
- (b) no gravity base structure foundation may have a diameter at the level of the seabed greater than 50 metres;
- (c) no pin pile jacket foundation forming part of the authorised scheme may—
 - (i) have a pin pile diameter of greater than five metres; or
 - (ii) employ more than four pin piles per jacket foundation;
- (d) no suction bucket jacket foundation forming part of the authorised scheme may—
 - (i) have a suction bucket diameter of greater than ten metres; or
 - (ii) employ more than four suction buckets per jacket foundation;

(4) The total seabed footprint area for the offshore artificial nesting structure foundations must not exceed—

- (a) 2,000 square metres excluding scour protection; and
- (b) 12,300 square metres including scour protection.

(5) The total number of offshore artificial nesting structures forming part of the authorised scheme and the authorised schemes in licence 3 (northern artificial nesting structure 1) and/or licence 4 (northern artificial nesting structure 2) and/or licence 5 (southern artificial nesting structure 1) taken together must not exceed two.

Maintenance of the authorised scheme

2.—(1) The undertaker may at any time maintain the authorised scheme, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Maintenance works include but are not limited to—

- (a) major offshore artificial nesting structure component replacement;
- (b) offshore artificial nesting structure component repairs;
- (c) painting and applying other coatings to the offshore artificial nesting structure;
- (d) bird waste and marine growth removal;
- (e) access ladder and boat ladder replacement;

(4) Where the MMO's approval is required under sub-paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Vessels under the undertaker's control

3.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

4. Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notification and Inspection

5.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent variations to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 13; and
 - (ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 13;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in sub-paragraph (a) above must confirm receipt of this licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 13 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any offshore operations manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

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

- (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) as soon as reasonably practicable and no later than 24 hours after completion of construction of the authorised scheme.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least 14 days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 9, and to the extent that they are carried out under this licence, Work No. 8, and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 11(1)(b). Copies of all notices must be provided to the MMO and UK Hydrographic Office within five days.

(10) The undertaker must notify the UK Hydrographic Office—

- (a) of commencement of the licensed activities at least 14 days prior to commencement;
- (b) of the progress of the licensed activities; and
- (c) of completion of construction of the licensed activities within 14 days of completion

in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, Kingfisher Information Service, the UK Hydrographic Office and regional fisheries organisations.

Aids to navigation

6.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and

(c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan approved pursuant to condition 11(1)(h) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 5(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Colouring of structures

7.—(1) Except as otherwise required by Trinity House the undertaker must paint all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least Highest Astronomical Tide to a height as directed by Trinity House.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the remainder of the structures are painted submarine grey (colour code RAL 7035).

Chemicals, drilling and debris

8.—(1) Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the drilling installation of or seabed preparation for foundations is disposed of within the disposal site reference(s) to be provided in writing by the MMO within the extent of the Order limits seaward of MHWS. Any material of anthropogenic origin will be screened out and disposed of at an appropriate waste facility onshore.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan approved under condition 11(1)(d)(i).

(10) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (0344 382 0580), and the UK Hydrographic Office email: navwarnings@btconnect.com.

(11) All dropped objects including those in sub-paragraph (10), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.

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

Notification of unauthorised deposits

9.—(1) If the master of a vessel determines that it is necessary to make an unauthorised deposit within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Aviation safety

10. The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

- (a) the date of the commencement of construction of the licensed activities;
- (b) the date the offshore artificial nesting structure is brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of the offshore artificial nesting structure to be constructed;
- (e) the latitude and longitude of the offshore artificial nesting structure to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the licensed activities. Copies of notifications must be provided to the MMO within five days of the notification to the Defence Infrastructure Organisation Safeguarding.

Pre-construction plans and documents

11.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be approved in writing by the MMO in consultation with Trinity House, the MCA, UKHO and the relevant statutory nature conservation body which shows—
 - (i) the proposed location and choice of foundation of the offshore artificial nesting structure;
 - (ii) the grid coordinates of the centre point of the proposed location for the offshore artificial nesting structure;

- (iii) the dimensions of all foundations;
 - (iv) the proposed layout of the offshore artificial nesting structure to be constructed under this licence;
 - (v) any exclusion zones/environmental micro-siting requirements;
- to ensure conformity with the description of Work Nos. 8 and 9 and compliance with conditions 1 to 9 above.
- (b) A construction programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) an indicative written construction programme for the offshore artificial nesting structure comprised in the works at paragraph 3 of Part 1 (licensed marine activities) of this licence (insofar as not shown in sub-paragraph (ii) above);
 - (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
 - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works;
 - (ii) scour protection management including details of the need, type, sources, quantity and installation methods for scour protection;
 - (iii) main contractors;
 - (iv) vessels and vessels transit corridors; and
 - (v) associated and ancillary works;
 - (d) A project environmental management plan in accordance with the outline project environmental management plan covering the period of construction and operation to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
 - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements; and
 - (iv) the appointment and responsibilities of a fisheries liaison officer.
 - (e) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the outline marine mammal mitigation protocol (piling), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body, to be submitted to the MMO at least four months prior to commencement of piling activities. The marine mammal mitigation protocol must include consideration of deployment of noise mitigation systems or noise abatement systems that will be utilised to manage sounds from those piling activities. The marine mammal mitigation protocol must include full details and justification for the mitigation chosen or excluded for deployment;
 - (f) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least three months prior to commencement of operation of the licensed activities and to provide for review and resubmission every five years during the operational phase;
 - (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 four months prior to commencement of the licensed activities and to the MMO at

least three 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 to include—

- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction, where required;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS (Online Access to the Index of Archaeological Investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;
- (h) An aids to navigation management plan to be approved in writing by the MMO, following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 6 for the lifetime of the authorised scheme.

(2) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 3,500kJ.

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of archaeological investigation which is itself in accordance with the details set out in the outline written scheme of investigation (offshore), and which has been submitted to and approved by the MMO in consultation with the statutory historic body.

12.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 11 must be submitted for approval at least three months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 11.

(3) Subject to sub-paragraph (5), the MMO must determine an application for approval made under condition 11 within a period of three months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 11, unless otherwise agreed in writing by the MMO.

(5) Where an application for approval is made under condition 11(1)(e), the MMO must determine the application for approval 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.

Reporting of engaged agents, contractors and vessels

13.—(1) The undertaker must provide the following information to the MMO, unless otherwise agreed in writing by the MMO—

- (a) the name, company number (if applicable), address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Reporting of impact pile driving

14.—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and
- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) "*Marine Noise Registry*" means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) "*Forward Look*" and "*Close Out*" requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

Southern North Sea Special Area of Conservation Site Integrity Plan (Piling)

15.—(1) No piling activities can begin until a Site Integrity Plan (SIP), which accords with the principles set out in the in principle Southern North Sea SAC Site Integrity Plan so far as relevant to the authorised scheme, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted to the MMO no later than four months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

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

(6) The MMO must determine an application for approval made under condition 15 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.

(7) The licensed activities must be carried out in accordance with the SIP approved under condition 15, unless otherwise agreed in writing by the MMO.

Maintenance reporting

16.—(1) An annual maintenance report must be submitted to the MMO in writing within three months following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 2 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within three months of that date, a consolidated maintenance report, which will—

- (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition 16(1) of this licence; and
- (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

SCHEDULE 16

Article 32

Deemed licence under the 2009 Act – biogenic reef creation

PART 1

Licensed marine activities

1.—(1) In this licence—

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised scheme” means Work No. 8 and 10 described in paragraph 3 of Part 1 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

“commence” means the first carrying out of any licensed marine activities authorised by this licence, save for operations consisting of offshore preparation works and the words “commencement” and “commenced” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“cultch material” means a mixture of aggregate pebbles and waste shell from the mussel and scallop industry;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“Environment Agency” means the non-departmental public body of that name created by section 1 of the Environment Act 1995;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.);

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct, recreate and replace (including replenishment of cable protection), but does not include the removal, reconstruction or replacement of foundations associated with the offshore works, to the extent assessed in the environmental statement; and “maintenance” and any derivative of maintain must be construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“offshore Order limits” means the limits shown on the works plans within which the authorised scheme may be carried out;

“offshore preparation works” means surveys and monitoring seaward of MHWS undertaken prior to the commencement of construction to prepare for construction;

“offshore works” means Work Nos. 1 to 11 and any related associated development in connection with those works and ancillary works described in Schedule 1 part 1 and Schedule 1 part 2 of the Order respectively;

“the Order” means the Outer Dowsing Offshore Wind Farm Order 202[*];

“outline marine archaeological written scheme of investigation” means the document certified as the outline marine archaeological written scheme of investigation by the Secretary of State for the purposes of the Order under article 41;

“SAC” means special area of conservation;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means GT R4 Limited (company number 13281221);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“works plans” means the plans certified as the works plans onshore and works plans offshore by the Secretary of State for the purposes of the Order under article 41 (certification of plans etc.).

(2) reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
 - (b) all coordinates are taken to be latitude and longitude degrees and minutes to two decimal places.
- (4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—
- (a) Marine Management Organisation
 - Marine Licensing Team
 - Lancaster House Hampshire Court
 - Newcastle Business Park
 - Newcastle upon Tyne
 - NE4 7YH
 - Tel: 0300 123 1032;
 - (b) Marine Management Organisation (local office)
 - CEFAS Building
 - Pakefield Road
 - Lowestoft
 - NR33 0HT
 - Tel: 0208 026 6094;
 - (c) Trinity House
 - Tower Hill
 - London
 - EC3N 4DH
 - Tel: 020 7481 6900;
 - (d) The United Kingdom Hydrographic Office
 - Admiralty Way
 - Taunton
 - Somerset
 - TA1 2DN
 - Tel: 01823 337 900;
 - (e) Maritime and Coastguard Agency
 - UK Technical Services Navigation
 - Spring Place 105 Commercial Road
 - Southampton
 - SO15 1EG
 - Tel: 020 3817 2426/2433
 - Email: navigationsafety@mcga.gov.uk;
 - (f) Natural England
 - 4th Floor, Foss House
 - 1-2 Peasholme Green
 - York
 - YO1 7PX
 - Tel: 0300 060 3900;
 - (g) Historic England
 - The Foundry

82 Granville Street
Birmingham
B1 2LH
Tel: 0121 625 6888.

2. Subject to the licence conditions at Part 2, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for the creation of the biogenic reef;
- (d) debris clearance works;
- (e) boulder clearance works either by displacement ploughing or subsea grab technique or other equivalent method;
- (f) the removal of out of service cables;
- (g) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation; and
- (h) removal of static fishing gear.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 8— a temporary work area associated with Work No. 10 for vessels to carry out anchoring and positioning, and for the wet storage of construction materials;

Work No. 10— creation and recreation of biogenic reef within the Inner Dowsing Race Bank and North Ridge Special Area of Conservation;

In connection with such Work Nos. 8 and 10 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) dredging;
- (b) the removal of material from the seabed required for the construction of Work No. 10 and the disposal of inert material of natural origin and dredged material within the Order limits produced during seabed preparation for the creation of the biogenic reef; and
- (c) removal of static fishing equipment.

In connection with such Work Nos. 8 and 10, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) biogenic reef material, including *Mytilus edulis* (blue mussel) beds, *Ostrea edulis* (native oyster) beds and cultch material for oyster and blue mussel bed seeding;
- (b) steel; and
- (c) hemp.

5. The grid coordinates for the authorised scheme are specified below—

Biogenic Reef Restoration Area A

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
5	53° 09' 58.581" N	000° 34' 54.557" E
6	53° 10' 23.017" N	000° 33' 37.116" E
7	53° 08' 44.097" N	000° 32' 22.615" E
8	53° 08' 46.490" N	000° 31' 6.276" E
9	53° 11' 18.105" N	000° 33' 14.671" E
10	53° 10' 37.912" N	000° 35' 44.425" E

Biogenic Reef Restoration Area B

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
12	53° 12' 23.449" N	000° 35' 5.357" E
13	53° 12' 28.510" N	000° 34' 44.027" E
14	53° 13' 50.373" N	000° 35' 38.913" E
15	53° 13' 18.481" N	000° 36' 31.958" E

Biogenic Reef Restoration Area C

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
22	53° 14' 4.788" N	000° 38' 30.377" E
23	53° 14' 6.175" N	000° 37' 53.971" E
24	53° 15' 1.702" N	000° 38' 1.679" E
25	53° 15' 1.685" N	000° 38' 4.229" E
26	53° 15' 51.200" N	000° 38' 26.112" E
27	53° 15' 34.130" N	000° 39' 8.260" E

Biogenic Reef Restoration Area D

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
35	53° 16' 19.458" N	000° 34' 46.173" E
36	53° 17' 17.615" N	000° 34' 54.292" E
37	53° 17' 8.480" N	000° 35' 44.114" E

Biogenic Reef Restoration Area E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
29	53° 15' 9.583" N	000° 42' 34.551" E
30	53° 15' 41.756" N	000° 41' 36.844" E
31	53° 15' 56.790" N	000° 41' 37.691" E
32	53° 16' 56.770" N	000° 43' 12.509" E
33	53° 16' 23.463" N	000° 43' 54.514" E

Biogenic Reef Restoration Area F

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
39	53° 15' 29.389" N	000° 39' 45.725" E
40	53° 16' 2.527" N	000° 38' 31.120" E
41	53° 17' 22.679" N	000° 39' 6.577" E
42	53° 17' 43.004" N	000° 39' 53.733" E
43	53° 17' 27.210" N	000° 41' 31.415" E

Biogenic Reef Restoration Area G

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
45	53° 16' 22.557" N	000° 37' 45.996" E
46	53° 16' 36.345" N	000° 37' 14.922" E
47	53° 18' 2.541" N	000° 37' 52.688" E
48	53° 17' 50.789" N	000° 39' 5.529" E
49	53° 17' 13.200" N	000° 38' 2.681" E

Biogenic Reef Restoration Area H

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
112	53° 19' 28.366" N	000° 35' 2.779" E
625	53° 19' 30.507" N	000° 37' 6.382" E
626	53° 17' 50.607" N	000° 35' 7.150" E

Biogenic Reef Restoration Area I

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
118	53° 20' 5.258" N	000° 39' 39.628" E
119	53° 20' 3.949" N	000° 40' 47.782" E
182	53° 19' 7.280" N	000° 40' 53.837" E
183	53° 18' 2.446" N	000° 41' 0.758" E
184	53° 18' 3.678" N	000° 40' 34.763" E
185	53° 18' 15.768" N	000° 40' 40.440" E
186	53° 18' 15.469" N	000° 39' 46.818" E
187	53° 18' 10.407" N	000° 39' 38.348" E
188	53° 18' 57.173" N	000° 39' 38.869" E

Biogenic Reef Restoration Area J

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
51	53° 20' 31.908" N	000° 40' 44.792" E
52	53° 20' 31.498" N	000° 39' 39.921" E
53	53° 20' 34.873" N	000° 39' 39.958" E
54	53° 20' 36.959" N	000° 34' 13.419" E
55	53° 21' 9.344" N	000° 34' 47.278" E
56	53° 21' 8.449" N	000° 40' 40.884" E

Biogenic Reef Restoration Area K

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
67	53° 21' 49.731" N	000° 43' 36.612" E
68	53° 22' 31.123" N	000° 43' 21.156" E
69	53° 22' 24.719" N	000° 44' 59.434" E
70	53° 21' 52.700" N	000° 45' 0.546" E

Biogenic Reef Restoration Area L

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
63	53° 21' 43.928" N	000° 45' 47.084" E
64	53° 22' 28.984" N	000° 46' 1.429" E
65	53° 22' 28.153" N	000° 48' 3.606" E

Biogenic Reef Restoration Area M

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
169	53° 18' 58.945" N	000° 51' 27.099" E
170	53° 19' 48.338" N	000° 49' 21.912" E
171	53° 20' 10.572" N	000° 49' 12.331" E
172	53° 20' 9.719" N	000° 48' 27.666" E
622	53° 21' 10.112" N	000° 49' 46.664" E
623	53° 21' 7.660" N	000° 46' 0.500" E

Biogenic Reef Restoration Area N

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
58	53° 21' 42.482" N	000° 54' 35.283" E
59	53° 21' 40.385" N	000° 52' 17.167" E
60	53° 22' 28.482" N	000° 51' 11.974" E
61	53° 22' 27.873" N	000° 52' 52.820" E

Biogenic Reef Restoration Area O

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
132	53° 21' 28.991" N	000° 52' 59.849" E
133	53° 21' 30.092" N	000° 55' 34.182" E
165	53° 20' 23.532" N	000° 54' 14.849" E
166	53° 20' 17.139" N	000° 54' 1.469" E
167	53° 20' 23.390" N	000° 53' 56.111" E
624	53° 21' 8.990" N	000° 55' 50.048" E

Biogenic Reef Restoration Area P

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
17	53° 07' 37.765" N	000° 59' 12.242" E
18	53° 13' 9.723" N	000° 54' 3.794" E
19	53° 15' 9.191" N	000° 55' 41.727" E
20	53° 13' 25.250" N	001° 00' 8.828" E

Biogenic Reef Restoration Area Q

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	53° 08' 52.043" N	000° 54' 34.557" E
2	53° 11' 4.707" N	000° 50' 25.862" E
3	53° 11' 34.315" N	000° 51' 21.795" E

6. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

7. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

8. Any amendments to the details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that the amendment is unlikely

to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

PART 2

Conditions

Design parameters

1. The total volume of cultch forming part of the authorised scheme must not exceed 46,300 cubic metres.

Maintenance of the authorised scheme

2.—(1) The undertaker may at any time maintain the authorised scheme, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Maintenance works include but are not limited to recreation of biogenic reef.

(4) Where the MMO's approval is required under sub-paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Vessels under the undertaker's control

3.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

4. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notification and Inspection

5.—(1) The undertaker must ensure that—

(a) a copy of this licence (issued as part of the grant of the Order) and any subsequent variations to it is provided to—

(i) all agents and contractors notified to the MMO in accordance with condition 10; and

(ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 10;

(b) within 28 days of receipt of a copy of this licence those persons referred to in sub-paragraph (a) above must confirm receipt of this licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 10 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

(a) the undertaker's registered address;

- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
 - (c) on board each vessel or at the office of any offshore operations manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.
- (6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.
- (7) The Kingfisher Information Service of Seafish must be informed of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or part thereof by including the information in a notice via the Kingfisher Service of Seafish portal (<https://kingfisherbulletin.org/submit-notice>) and sent by email to kingfisher@seafish.co.uk—
- (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
 - (b) as soon as reasonably practicable and no later than 24 hours after completion of construction of the authorised scheme.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least 14 days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 10, and to the extent that they are carried out under this licence, Work No. 8, and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 8(1)(b). Copies of all notices must be provided to the MMO and UK Hydrographic Office within five days.

(10) The undertaker must notify the UK Hydrographic Office—

- (a) of commencement of the licensed activities at least 14 days prior to commencement;
- (b) of the progress of the licensed activities; and
- (c) of completion of construction of the licensed activities within 14 days of completion

in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days.

Chemicals and debris

6.—(1) Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team .

(5) Debris or dropped objects which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (0344 382 0580), and the UK Hydrographic Office email: navwarnings@btconnect.com.

(6) All dropped objects including those in sub-paragraph (5), must be reported to the MMO using the Dropped Object Procedure Form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.

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

Notification of unauthorised deposits

7.—(1) If the master of a vessel determines that it is necessary to make an unauthorised deposit within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documents

8.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be approved in writing by the MMO in consultation with the MCA, UKHO and the relevant statutory nature conservation body, which shows the proposed location of the biogenic reef, to ensure conformity with the description of Work Nos. 8 and 10 and compliance with conditions 1 to 7 above.
- (b) A construction programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) an indicative written construction programme for the creation of the biogenic reef comprised in the works at paragraph 3 of Part 1 (licensed marine activities) of this licence (insofar as not shown in sub-paragraph (ii) above);
- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
 - (i) biogenic reef installation methodology;
 - (ii) main contractors;
 - (iii) vessels and vessels transit corridors; and
 - (iv) associated and ancillary works.
- (d) 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 four months prior to commencement of the licensed activities and to the MMO at least three 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 to include—

- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
- (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
- (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
- (v) monitoring of archaeological exclusion zones during and post construction, where required;
- (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the Archaeological Data Service, by submitting an OASIS (Online AccesS to the Index of archaeological investigationS) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO and Historic England that the OASIS form has been submitted to the Archaeological Data Service within two weeks of submission;
- (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
- (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.

(2) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of archaeological investigation which is itself in accordance with the details set out in the outline written scheme of investigation (offshore), and which has been submitted to and approved by the MMO in consultation with the statutory historic body.

9.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 8 must be submitted for approval at least three months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 8.

(3) The MMO must determine an application for approval made under condition 8 within a period of three months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 8, unless otherwise agreed in writing by the MMO.

Reporting of engaged agents, contractors and vessels

10.—(1) The undertaker must provide the following information to the MMO, unless otherwise agreed in writing by the MMO—

- (a) the name, company number (if applicable), address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities,

including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

SCHEDULE 17

Article 36

Hedgerows

Part 1

Removal of hedgerows

<i>(1) Area</i>	<i>(2) Reference to hedgerow</i>
Boston Borough Council	The hedgerow marked 1323 on sheet 27 of 51 of the important hedgerows and tree preservation order plan.
Boston Borough Council	The hedgerow marked 1405 on sheet 33 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The hedgerow marked 719 on sheet 15 of 51 of the important hedgerows and tree preservation order plan.

Part 2

Removal of important hedgerows

<i>(1) Area</i>	<i>(2) Reference to hedgerow</i>
Boston Borough Council	The important hedgerow marked 57 on sheet 3 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 1986 on sheet 2 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 71 on sheets 3 and 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 91 on sheet 3 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 96 on sheets 3 and 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 99 on sheets 3 and 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 107 on sheets 3 and 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 183 on sheet 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 186 on sheets

	4 and 5 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 197 on sheet 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 201 on sheet 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 203 on sheet 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 211 on sheet 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 213 on sheet 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 1932 on sheet 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 1977 on sheet 4 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 157 on sheet 5 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 1940 on sheet 5 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 1969 on sheet 8 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 168 on sheet 10 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 248 on sheet 10 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 270 on sheets 10 and 11 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 305 on sheets 10 and 11 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 325 on sheet 13 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 335 on sheet 13 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 1948 on sheet 17 of 51 of the important hedgerows and tree preservation order plan.
East Lindsey District Council	The important hedgerow marked 1015 on sheet 20 of 51 of the important hedgerows and tree preservation order plan.

East Lindsey District Council	The important hedgerow marked 1036 on sheet 21 of 51 of the important hedgerows and tree preservation order plan.
Boston Borough Council	The important hedgerow marked 1954 on sheets 21 and 22 of 51 of the important hedgerows and tree preservation order plan.
Boston Borough Council	The important hedgerow marked 1154 on sheet 25 of 51 of the important hedgerows and tree preservation order plan.
Boston Borough Council	The important hedgerow marked 1175 on sheet 25 of 51 of the important hedgerows and tree preservation order plan.
Boston Borough Council	The important hedgerow marked 1378 on sheet 33 of 51 of the important hedgerows and tree preservation order plan.
Boston Borough Council	The important hedgerow marked 1380 on sheet 33 of 51 of the important hedgerows and tree preservation order plan.
Boston Borough Council	The important hedgerow marked 1383 on sheet 33 of 51 of the important hedgerows and tree preservation order plan.
Boston Borough Council	The important hedgerow marked 1773 on sheets 43 and 44 of 51 of the important hedgerows and tree preservation order plan.
Boston Borough Council	The important hedgerow marked 1836 on sheet 44 of 51 of the important hedgerows and tree preservation order plan.

SCHEDULE 18

Article 38

Protective Provisions

PART 1

Protection for electricity, gas, water and sewerage undertakers

Application

1. For the protection of the affected undertakers referred to in this part of this Schedule the following provisions have effect unless otherwise agreed in writing between the undertaker and the affected undertaker concerned.

2. In this Part of this Schedule—

“affected undertaker” means—

- (a) any licence holder within the meaning of Part 1 (electricity supply) of the 1989 Act (an “electricity undertaker”);
- (b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986 (a “gas undertaker”)(a);
- (c) a water undertaker within the meaning of the Water Industry Act 1991 (a “water undertaker”);

(a) 1986 c.44.

(d) a sewerage undertaker within the meaning of Part 1 (preliminary) of the Water Industry Act 1991 (a “sewerage undertaker”),

for the area of the authorised development but, for the avoidance of doubt, does not include the undertakers specified in Parts 3, 4, 5, 7, 8 9, 13, 14 or 15 of this Schedule, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained;

“alternative apparatus” means alternative apparatus adequate to enable the affected undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by that electricity undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by that gas transporter for the purposes of gas supply;

(c) in the case of a water undertaker—

(i) mains, pipes or other apparatus belonging to or maintained by that water undertaker for the purposes of water supply;

(ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991(a) at the time of the works mentioned in this Part;

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the sewerage undertaker in accordance with the Water Industry Act 1991;

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act(b) or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date)(c) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties; and

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land.

Precedence of the 1991 Act in respect of apparatus in the street

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the affected undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

No acquisition etc. except by agreement

4. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

(a) Section 51A was amended by the Water Act 2014 (c.21) and the Water Act 2003 (c.37).

(b) Section 102(4) was amended by paragraph 90 of Schedule 7 to the Water Act 2015 (c.21).

(c) Section 104 was amended by the Water Act 2014 (c.21), the Flood and Water Management Act 2012 (c.29), and the Water Act 2003 (c.37).

Removal of apparatus

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this part of this Schedule and any right of an affected undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the affected undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the affected undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an affected undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the affected undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the affected undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use all reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the affected undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 39 (arbitration).

(5) The affected undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 39 (arbitration), and after the grant to the affected undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the affected undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the affected undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the affected undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

Facilities and rights for alternative apparatus

6.—(1) Where, in accordance with the provisions of this part of this Schedule, the undertaker affords to an affected undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the affected undertaker in question or in default of agreement settled by arbitration in accordance with article 39 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the affected undertaker

in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that affected undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

7.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5(2), the undertaker must submit to the affected undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the affected undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the affected undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by an affected undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If an affected undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the affected undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

Expenses and costs

8.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to an affected undertaker the reasonable expenses incurred by that affected undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 39 (arbitration) to be

necessary, then, if such placing involves cost in the construction of works under this part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the affected undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an affected undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the affected undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

9.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of an affected undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any affected undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that affected undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that affected undertaker for any other expenses, loss, damages, penalty or costs incurred by the affected undertaker,

by reason of or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an affected undertaker, its officers, servants, contractors or agents.

(3) An affected undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Miscellaneous

10. Nothing in this part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an affected undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

11. Any difference or dispute arising between the undertaker and the affected undertaker under this Part must, unless otherwise agreed in writing between the undertaker and the affected undertaker, be determined by arbitration in accordance with article 39 (arbitration).

PART 2

Protection for operators of electronic communications code networks

1. For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

2. In this Part—

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

“electronic communications code network” means—

- (a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act^(a); and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 of that code; and

“operator” means the operator of an electronic communications code network.

3. The exercise of the powers of article 30 (statutory undertakers) are subject to Part 10 of Schedule 3A (the electronic communications code) to the 2003 Act.

4.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator); or
- (b) there is any interruption in the supply of the service provided by an operator, the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—
 - (i) make reasonable compensation to an operator for loss sustained by it; and
 - (ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand may be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 39 (arbitration).

5. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(a) Section 106 was amended by the Digital Economy Act 2017 (c.30).

6. Nothing in this part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

Protection for Anglian Water Services Limited

Application

1. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

“Anglian Water” means Anglian Water Services Limited;

“apparatus” means—

- (a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under the Water Industry Act 1991;
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act;
- (d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water,

and includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus, and for the purpose of this definition, where words are defined by section 219 of that Act, they shall be taken to have the same meaning;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land; and

“plan” includes sections, drawings, specifications and method statements.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

4. Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 12 (temporary stopping up of streets), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Acquisition of land

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until—

- (a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and
- (b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 7.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Anglian Water reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 39 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 39, and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall before taking or requiring any further step in such substitution works, use reasonable endeavours to comply with Anglian Water's reasonable requests for a reasonable period of time to enable Anglian Water to—

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Anglian Water facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 39 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Anglian Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting (England and Wales) Regulations 2016 or other legislation.

Retained apparatus

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (8) of paragraph 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the

impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus—

- (a) 4 metres where the diameter of the pipe is less than 250 millimetres;
- (b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres, and
- (c) a distance to be agreed on a case by case basis and before the submission of the Plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 39 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 6(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and

- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by Anglian Water,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Anglian Water, its officers, servants, contractors or agents.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

11. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 6(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 8(2), the undertaker must use reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use reasonable endeavours to co-operate with the undertaker for that purpose.

12. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

13. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

14. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

15. For the avoidance of doubt whenever Anglian Water's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

16. Any difference or dispute arising between the undertaker and Anglian Water under this Part must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with article 39 (arbitration).

PART 4

Protection for the Environment Agency

1.—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this part of this Schedule—

“Agency” means the Environment Agency;

“Agency dredging operation” means any operation involving a dredger employed by the Agency or its contractors that is engaged in or preparing to discharge sand into a sinker pipe;

“beach nourishment works” means work carried out annually by the Agency to nourish the existing coastline between Saltfleet and Gibraltar Point in Lincolnshire;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” is construed accordingly;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“emergency” means any occurrence which presents a risk of—

- (a) serious flooding;
- (b) serious detrimental impact on drainage;
- (c) serious harm to the environment;

“exempt flood risk activities” has the same meaning given in regulation 5 of the Environmental Permitting (England and Wales) Regulations 2016;

“fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

“main river” has the same meaning given in section 113 of the Water Resources Act 1991;

“plans” includes plans, sections, elevations, drawings, specifications, programmes, proposals, calculations, method statements;

“remote defence” means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river;

“sea defence” means any bank, wall, embankment (any berm, counterwall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the Agency’s area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949 or by any local authority or any navigation, harbour or conservancy authority;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within—

- (a) 16 metres of the base of a sea defence which is likely to—
 - (i) endanger the stability of, cause damage or reduce the effectiveness of that sea defence; or
 - (ii) interfere with the Agency’s access to or along that sea defence or the Agency’s ability to undertake works to ensure the efficacy of that sea defence;
- (b) 8 metres of the base of a remote defence which is likely to—
 - (i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence, or
 - (ii) interfere with the Agency’s access to or along that remote defence;
- (c) 16 metres of a drainage work or is otherwise likely to—
 - (i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
 - (ii) affect the flow, purity or quality of water in any watercourse or other surface waters
 - (iii) cause obstruction to the free passage of fish or damage to any fishery;
 - (iv) affect the conservation, distribution or use of water resources; or

- (v) affect the conservation value of the main river and habitats in its immediate vicinity;
- (d) 500 metres of any Agency dredging operation which is likely to interact or interfere with the Agency's beach nourishment works;

or which involves—

- (e) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and
- (f) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work,

but does not include exempt flood risk activities;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.

Submission and approval of plans

2.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 12.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or such later date as is agreed between the Agency and the undertaker and if further particulars have been requested pursuant to sub paragraph (1) the period between the making of this request and the provision of further particulars in response to it shall not be taken into account in the calculation of the 2 months for the purposes of this sub-paragraph; and
- (c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation or the prevention of environmental harm in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

(5) In the case of a refusal, the Agency must provide reasons for the grounds of that refusal.

Construction of protective works

3. Without limiting paragraph 2 the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

Timing of works and service of notices

4.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 3, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work to which the protective works relate.

Works not in accordance with this Part of Schedule 18

5.—(1) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions and where the Agency acting reasonably considers it necessary to avoid any of the risks specified in sub-paragraph (2), the Agency may serve written notice requiring the undertaker to cease all or part of the specified works as may be specified within the notice within such reasonable period specified in the notice, and the undertaker must cease constructing the specified works or part thereof until such time as it has obtained the consent or complied with the condition specified in the notice served.

(2) The risks specified in sub-paragraph (1) are—

- (a) risk of flooding;
- (b) risk of harm to the environment;
- (c) risk of detrimental impact on drainage;
- (d) damage to the fishery.

(3) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(4) Subject to sub-paragraph (5) if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (3) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined in accordance with paragraph 12.

Maintenance of works

6.—(1) Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the

undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (4) if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 12.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work expressly authorised in the approval of specified works plans and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.

Remediating impaired drainage work

7. If by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

Agency access

8.—(1) If by reason of construction of the specified work or the failure of any such work, the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must notify the Agency immediately and provide such suitable alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction occurred and such access must be made available as soon as reasonably practicable after the undertaker becoming aware of such obstruction, except in the case of an emergency in which case the undertaker must provide such alternative means of access on demand.

(2) If by reason of stopping up or diversion of Roman Bank under the powers conferred by article 12 (temporary stopping up of streets) the Agency's access to carry out any of its statutory functions would be materially obstructed, the undertaker must facilitate continued, unrestricted access over Roman Bank for the Agency and any contractors working on its behalf, provided that the Agency gives the undertaker reasonable notice of its need to take access over any part of Roman Bank which is temporarily stopped up.

Free passage of fish

9.—(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage within such reasonable period specified in the notice.

(3) If the undertaker fails to take such steps as are described in the notice served under sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

Indemnity

10. The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may incur—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and
- (c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

11.—(1) The undertaker is responsible for and indemnifies the Agency against all costs and losses, liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of, or arising out of—

- (a) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(2) For the avoidance of doubt, in sub-paragraph (1)—

- (a) “costs” includes—
 - (i) expenses and charges;
 - (ii) staff costs and overheads;
 - (iii) legal costs;
- (b) “losses” includes physical damage.
- (c) “claims” and “demands” include as applicable—
 - (i) costs (within the meaning of sub-paragraph (2)(i)) incurred in connection with any claim or demand;
 - (ii) any interest element of sums claimed or demanded;
- (d) “liabilities” includes—
 - (i) contractual liabilities;

- (ii) tortious liabilities (including liabilities for negligence or nuisance);
- (iii) liabilities to pay statutory compensation or for breach of statutory duty;
- (iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(3) The Agency must give to the undertaker reasonable notice of any such claim or demand and must not settle or compromise a claim without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.

(4) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(5) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, must not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

(6) Nothing in this paragraph imposes any liability on the undertaker with respect to any costs, charges, expenses, damages, claims, demands or losses to the extent that they are attributable to the neglect or default of the Agency, its officers, servants, contractors or agents.

Disputes

12. Any dispute arising between the undertaker and the Agency under this Part of this Schedule must, if the parties agree, be determined by arbitration under article 39 (arbitration), but failing agreement be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Energy Security and Net Zero or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

PART 5

Protection for the drainage authorities

1. The provisions of this Part of this Schedule have effect for the protection of a drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

2. In this Part of this Schedule—

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation; and “construct” and “constructed” must be constructed accordingly;

“drainage authority” means in relation to an ordinary watercourse, the drainage board concerned within the meaning of section 23 (prohibitions of obstructions etc in watercourses) of the Land Drainage Act 1991;

“drainage work” means any ordinary watercourse and includes any land that provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence;

“ordinary watercourse” has the meaning given in section 72 (interpretation) of the Land Drainage Act 1991;

“plans” includes plans, sections, elevations, drawings, specifications, calculations and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the total volume or volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow of water in any ordinary watercourse or other surface waters;
- (c) restrict access to ordinary watercourses;

- (d) restrict the ability of the relevant drainage authority to spread spoils arising from ordinary watercourses within 9 metres of the landward toe of either side of the banks of the watercourse
- (e) affect the conservation, distribution or use of water resources.

3.—(1) Before beginning to construct any specified work, the undertaker must submit to the relevant drainage authority plans of the specified work and any such further particulars available to it as the relevant drainage authority may within 28 days of the submission of the plans reasonably require.

(2) The undertaker must not commence construction of the specified work until approval, unconditionally or conditionally, has been given as provided in this paragraph.

(3) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the relevant drainage authority, or determined under paragraph 11.

(4) Any approval of the relevant drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 56 days of the submission of the plans for approval or submission of further particulars (where required by the relevant drainage authority under sub-paragraph (1)) whichever is the later; and
- (c) may be given subject to such reasonable requirements as the relevant drainage authority may make for the protection of any drainage work, or for the prevention of flooding or pollution or discharge of its environmental functions.

(5) Any refusal under this paragraph must be accompanied by a statement of the grounds of refusal.

4. Without limiting paragraph 3, the requirements which the relevant drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

5.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the relevant drainage authority under paragraph 4 must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the relevant drainage authority

and an officer of the relevant drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the relevant drainage authority—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work and any protective work; and
- (b) notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the relevant drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of the specified work to which the protective works relate.

(4) If any part of a specified work or any protective work required by the relevant drainage authority is constructed otherwise than in accordance with the requirements of this Part of this

Schedule, the relevant drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the relevant drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to the reasonable satisfaction of the relevant drainage authority and to such extent and within such limits as the relevant drainage authority may reasonably require.

(5) Subject to sub-paragraph (6) and paragraph 10 if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the relevant drainage authority may execute the works specified in the notice and any expenditure reasonably incurred by the relevant drainage authority in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the relevant drainage authority must not except in the case of an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 11.

6.—(1) Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified works and any protective work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the relevant drainage authority, the relevant drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the relevant drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and any protective work and restore the site to its former condition, to such extent and within such limits as the relevant drainage authority reasonably requires.

(3) Subject to sub-paragraph (4) and paragraph 10, if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the relevant drainage authority may do what is reasonably necessary for such compliance and any reasonable expenditure incurred by the relevant drainage authority in so doing is recoverable from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the relevant drainage authority must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 11.

(5) This paragraph does not apply to-

- (a) drainage works which are vested in the relevant drainage authority, or which the relevant drainage authority or another person is liable to maintain and is not prevented by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

7. If by reason of the construction of any specified work and any protective work or of the failure of any such work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good

by the undertaker to the reasonable satisfaction of the relevant drainage authority and, if the undertaker fails to do so, the relevant drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

8. If by reason of construction of the specified work the relevant drainage authority's access to land drainage infrastructure, flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the relevant drainage authority to maintain the land drainage infrastructure, flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of or as soon as reasonably practicable after the undertaker becoming aware of such obstruction.

9. The undertaker must indemnify the relevant drainage authority in respect of costs, charges and expenses which the relevant drainage authority may reasonably incur by reason of—

- (a) the review, examination or approval of plans under this Part of this Schedule;
- (b) the inspection of the proposed location of the specified work or any protective works and the construction of the specified work or any protective works required by the relevant drainage authority under this Part of this Schedule; or
- (c) the carrying out of any surveys or tests by the relevant drainage authority which are reasonably required in connection with the construction of the specified works and any protective work.

10.—(1) Without limiting the other provisions of this Part of this Schedule, the undertaker must indemnify the relevant drainage authority in respect of all costs and losses, liabilities proceedings, damages, expenses, claims and demands not otherwise provided for in this Schedule which may be made or taken against, recovered from or incurred by the relevant drainage authority by reason of, or arising out of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourse; or
- (c) any flooding or increased flooding of any such land

that is caused by the construction, operation or maintenance of any specified works, the protective work or the failure of any such works comprised within them or by any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the specified works and protective works or dealing with any failure of the specified works and protective work.

(2) The relevant drainage authority must give to the undertaker reasonable notice of any such claim or demand, and must not settle or compromise a claim without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.

(3) The relevant drainage authority must take such steps as are reasonably practicable to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss to which the indemnity under sub-paragraph (1) applies.

(4) The fact that any work or thing may have been done by the undertaker in accordance with a plan approved or deemed approved by the relevant drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from liability under this Part of this Schedule.

(5) Nothing in this paragraph imposes any liability on the undertaker with respect to any costs, charges, expenses, damages, claims, demands or losses to the extent that they are attributable to the neglect or default of the relevant drainage authority, its officers, servants, contractors or agents.

11. Any dispute arising between the undertaker and the relevant drainage authority under this Part of this Schedule, if the parties agree, must be determined by arbitration under article 39 (arbitration) but failing agreement must be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Energy Security and Net Zero or its successor

acting jointly on a reference to them by the undertaker or the relevant drainage authority, after notice in writing by one to the other.

PART 6

Protection for the Harbour Authority

1. For the protection of the Harbour Authority as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Harbour Authority.

Interpretation

2. In this Part of this Schedule—

“business day” means any day other than a Saturday, a Sunday or a day on which commercial banks in London are generally closed for business other than automated business;

“Harbour Authority” means Port of Boston Limited (registered company number 02198182) being the harbour authority for the Port of Boston, as defined in the Harbours Act 1964, and includes the harbour master and its statutory successors;

“plans” includes sections, descriptions, drawings, specifications, indicative programme of works, risk assessments and method statements pertaining to the specified work;

“Port of Boston” means the harbour undertaking of the Harbour Authority vested in it by the Boston Harbour Revision Order 1989;

“specified work” means in relation to any work or operation authorised by this Order as is situated—

- (a) inside of the channel width defined by the mean low water springs contour, at a depth less than or at -8m AOD; or
- (b) outside of the channel width defined by the mean low water springs contour, at a depth less than or at -4m AOD;

in the river Haven within the Port of Boston or anywhere in its jurisdiction;

Submission and approval of plans

3.—(1) Before beginning to construct any work authorised by this Order within the harbour limits of the Port of Boston, the undertaker must submit to the Harbour Authority plans of the intended work and any such further particulars as the Harbour Authority may reasonably require within 20 business days of the submission of the plans. The undertaker must state whether the works are specified works or not.

(2) Any such specified work must not be constructed except in accordance with such plans and further particulars as may be approved in writing by the Harbour Authority.

(3) Any approval of the Harbour Authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) shall be deemed to be given if it is:
 - (i) neither given nor refused; or
 - (ii) refused without an indication of the grounds for refusal, within 30 business days of the submission of the plans or where further particulars are submitted under sub-paragraph (1), within 20 business days of the submission of those further particulars; and
- (c) may be given subject to such reasonable requirements or conditions as the Harbour Authority may make for the safety of navigation, including the protection for anchoring and dredging activities that may be carried on in the area of the specified works.

(4) The Harbour Authority must not withhold approval required under this paragraph except on the ground that the specified work may impact the safety of navigation.

(5) Any refusal under this paragraph must be accompanied by a statement of the grounds of refusal.

(6) No approval is required by the Harbour Authority for work authorised by this Order other than specified work.

Construction of specified works and service of notices

4. The Harbour Authority is entitled by its officer to watch and inspect the construction of such works.

5. The undertaker must give to the Harbour Authority not less than 10 business days' notice in writing of its intention to commence construction of any work authorised by this Order and notice in writing of its completion not later than 10 business days after the date on which it is completed.

Harbour legislation

6. Subject to article 34 and the terms of this Part, nothing in this Order prejudices or derogates from any of the powers, rights or privileges, or the jurisdiction or authority, of the Harbour Authority.

7. The undertaker shall not require any further approval or licence from the Harbour Authority in respect of work approved or deemed to have been approved or settled under this Part of this Schedule including any approval or licence specified to be required by the local enactments and local byelaws set out in article 34(1).

PART 7

Protection for National Grid Electricity Transmission Plc

Application

1.—(1) For the protection of National Grid Electricity Transmission Plc as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, where the benefit of this Order is transferred or granted to another person under article 6 (benefit of the Order)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid Electricity Transmission Plc and the transferee or grantee (as the case may be) in all cases where the transfer of the benefit relates to any specified works; and
- (b) written notice of the transfer or grant must be given to National Grid Electricity Transmission Plc on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid Electricity Transmission Plc (but without prejudice to paragraph 11(3)(b)).

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: (i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than a sum to be notified to the undertaker by National Grid Electricity Transmission Plc and agreed in writing between the parties. Evidence of that insurance must be provided to National Grid Electricity Transmission Plc on request. Such insurance must be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance must include (without limitation):

- (a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid Electricity Transmission Plc;
- (b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than a sum to be notified to the undertaker by National Grid Electricity Transmission Plc and agreed in writing between the parties;

“acceptable security” means either:

- (a) a parent company guarantee or guarantees from any parent company or companies of the undertaker in favour of National Grid Electricity Transmission Plc to cover the undertaker’s liability to National Grid Electricity Transmission Plc to a total liability cap) in an amount to be notified to the undertaker by National Grid Electricity Transmission Plc and agreed in writing between the parties (in a form reasonably satisfactory to National Grid Electricity Transmission Plc and where the relevant parent company is incorporated in a jurisdiction outside of the United Kingdom, accompanied with a legal opinion confirming the due capacity and authorisation of such parent company to enter into and be bound by the terms of such guarantee); or
- (b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid Electricity Transmission Plc to cover the undertaker’s liability to National Grid Electricity Transmission Plc for an amount to be notified to the undertaker by National Grid Electricity Transmission Plc and agreed in writing between the parties (in a form reasonably satisfactory to National Grid Electricity Transmission Plc);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid Electricity Transmission Plc to enable National Grid Electricity Transmission Plc to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) any electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid Electricity Transmission Plc together with any replacement apparatus;
- (b) such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid Electricity Transmission Plc for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus; and
- (c) any electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid Electricity Transmission Plc together with any replacement apparatus constructed as part of the Proposed NGET Projects, whether temporary or permanent (“Proposed NGET Projects apparatus”);

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule includes any below ground surveys monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“EGL3” means the Eastern Greenlink 3 Project;

“EGL4” means the Eastern Greenlink 4 Project;

“functions” includes powers and duties;

“Grimsby to Walpole” means the Grimsby to Walpole Project;

“ground mitigation scheme” means a scheme approved by National Grid Electricity Transmission Plc (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, requires the undertaker to submit for National Grid Electricity Transmission Plc’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“Incentive Deduction” means any incentive deduction National Grid Electricity Transmission Plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid Electricity Transmission Plc: construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid Electricity Transmission Plc” means National Grid Electricity Transmission Plc (Company Number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

“NESO” means as defined in the STC;

“NGET protective provisions plan” means the plan entitled NGET protective provisions plan and certified as the NGET protective provisions plan for the purposes of this Part of this Schedule;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“parent company” means a parent company of the undertaker acceptable to and which has been approved by National Grid Electricity Transmission Plc acting reasonably;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; and/or

- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

"Proposed NGET Projects" means together: EGL3, EGL4 and Grimsby to Walpole;

"Proposed NGET Projects Sites" include—

- (a) land on which any Proposed NGET Projects apparatus is situated; and
- (b) land on which Proposed NGET Projects apparatus is anticipated to be situated (in so far as the same has at any time been notified by National Grid Electricity Transmission Plc in writing to the undertaker);

"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NESO as modified from time to time;

"STC Claims" means any claim made under the STC against National Grid Electricity Transmission Plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission Plc's transmission system which arises as a result of the authorised works;

"Transmission Owner" means as defined in the STC;

"undertaker" means the undertaker as defined in article 2(1) of this Order;

Interaction with the Proposed NGET Projects

3. Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the carrying out, maintenance and operation of the authorised development and the Proposed NGET Projects. For the purposes of this paragraph, "reasonable endeavours" means—

- (a) undertaking consultation with National Grid Electricity Transmission Plc on detailed design and programming of the authorised works, taking into account such reasonable representations as National Grid Electricity Transmission Plc may provide in relation to proposed plans and timetables ;
- (b) having regard to the anticipated programme of works for the Proposed NGET Projects and facilitating a co-ordinated approach to construction programming, land assembly, and the carrying out of the authorised works and the Proposed NGET Projects where reasonably possible;
- (c) where possible, and subject to National Grid Electricity Transmission Plc having all necessary consents and rights in place , undertaking the placing of ducting or making provision for the Proposed NGET Projects; and
- (d) providing a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised works.

On Street Apparatus

4. Except for paragraphs 5 (apparatus of National Grid Electricity Transmission Plc in stopped up streets), 9 (retained apparatus: protection), 10 (expenses) and 11 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid Electricity Transmission Plc, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid Electricity Transmission Plc are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid Electricity Transmission Plc in stopped up streets

5. Notwithstanding the temporary stopping up or diversion of any streets under the powers of article 11 (temporary stopping up of public rights of way) and Article 12 (temporary stopping up of streets)], National Grid Electricity Transmission Plc is at liberty at all times to take all necessary access across any such stopped up street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street.

Acquisition of land

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not—

- (a) appropriate or acquire or take temporary possession of any land or apparatus of National Grid Electricity Transmission Plc; or
- (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid Electricity Transmission Plc,

otherwise than by agreement.

(2) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not unless otherwise agreed in writing acquire any land shown coloured purple on the NGET protective provisions plan.

(3) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid Electricity Transmission Plc and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid Electricity Transmission Plc or affect the provisions of any enactment or agreement regulating the relations between National Grid Electricity Transmission Plc and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid Electricity Transmission Plc reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid Electricity Transmission Plc and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid Electricity Transmission Plc unless otherwise agreed by National Grid Electricity Transmission Plc, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(4) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker, the undertaker and National Grid Electricity Transmission Plc agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid Electricity Transmission Plc and/or other enactments relied upon by National Grid Electricity Transmission Plc as of right or other use in relation to the apparatus, then the provisions in this Schedule prevails.

(5) Any agreement or consent granted by National Grid Electricity Transmission Plc under paragraph 9 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid Electricity Transmission Plc to maintain that apparatus in that land must not be extinguished until alternative

apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid Electricity Transmission Plc in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid Electricity Transmission Plc advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid Electricity Transmission Plc reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid Electricity Transmission Plc to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid Electricity Transmission Plc may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for National Grid Electricity Transmission Plc to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid Electricity Transmission Plc and the undertaker.

(5) National Grid Electricity Transmission Plc must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid Electricity Transmission Plc of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid Electricity Transmission Plc facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid Electricity Transmission Plc and must be no less favourable on the whole to National Grid Electricity Transmission Plc than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid Electricity Transmission Plc.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid Electricity Transmission Plc than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 15 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid Electricity Transmission Plc as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid Electricity Transmission Plc a plan of the works to be executed and seek from National Grid Electricity Transmission Plc details of the underground extent of their electricity assets.

(2) In relation to specified works the plan to be submitted to National Grid Electricity Transmission Plc under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the specified works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.
- (h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected by the specified works prior to, during and post construction;
- (c) details of load bearing capacities of the trenches;
- (d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;
- (f) written details of the operations and maintenance regime for any cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid Electricity Transmission Plc's engineers; and
- (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid Electricity Transmission Plc has given written approval of the plan so submitted.

(5) Any approval of National Grid Electricity Transmission Plc required under sub-paragraph (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid Electricity Transmission Plc may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid Electricity Transmission Plc and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid Electricity Transmission Plc for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid Electricity Transmission Plc will be entitled to watch and inspect the execution of those works.

(8) Where National Grid Electricity Transmission Plc requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid Electricity Transmission Plc's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and National Grid Electricity Transmission Plc must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid Electricity Transmission Plc in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid Electricity Transmission Plc notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid Electricity Transmission Plc's policies for development near overhead lines EN43-8, HSE's guidance note 6 "Avoidance of Danger from Overhead Lines" and National Grid's Technical Guidance Note 287 "Third-party guidance for working near National Grid Electricity Transmission Equipment".

Expenses

10.—(1) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid Electricity Transmission Plc within 30 days of receipt of an itemised invoice or claim from National Grid Electricity Transmission Plc all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid Electricity Transmission Plc in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid Electricity Transmission Plc in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid Electricity Transmission Plc as a consequence of National Grid Electricity Transmission Plc—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3); or

- (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid Electricity Transmission Plc;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 15 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid Electricity Transmission Plc by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid Electricity Transmission Plc in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid Electricity Transmission Plc any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the

undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid Electricity Transmission Plc, or there is any interruption in any service provided, or in the supply of any goods, by National Grid Electricity Transmission Plc, or National Grid Electricity Transmission Plc becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid Electricity Transmission Plc the cost reasonably and properly incurred by National Grid Electricity Transmission Plc in making good such damage or restoring the supply; and
- (b) indemnify National Grid Electricity Transmission Plc for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid Electricity Transmission Plc, by reason or in consequence of any such damage or interruption and National Grid Electricity Transmission Plc becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid Electricity Transmission Plc.

(2) The fact that any act or thing may have been done by National Grid Electricity Transmission Plc on behalf of the undertaker or in accordance with a plan approved by National Grid Electricity Transmission Plc or in accordance with any requirement of National Grid Electricity Transmission Plc or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid Electricity Transmission Plc fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or carries out the works in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid Electricity Transmission Plc, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid Electricity Transmission Plc as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 6 (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-paragraph 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) National Grid Electricity Transmission Plc must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid Electricity Transmission Plc must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid Electricity Transmission Plc must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid Electricity Transmission Plc’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid Electricity Transmission Plc’s control and if reasonably requested to do so by the undertaker National Grid Electricity Transmission Plc must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid Electricity Transmission Plc or in

respect of which National Grid Electricity Transmission Plc has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid Electricity Transmission Plc's apparatus until the following conditions are satisfied—

- (a) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it will maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same to the undertaker in writing; and
- (b) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid Electricity Transmission Plc that it will maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with 11(7) of this Part of this Schedule, nothing in this Part of this Schedule prevents National Grid Electricity Transmission Plc from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

12. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid Electricity Transmission Plc and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid Electricity Transmission Plc in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid Electricity Transmission Plc requires the removal of apparatus under paragraph 7(2) or National Grid Electricity Transmission Plc makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid Electricity Transmission Plc's undertaking and National Grid Electricity Transmission Plc must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid Electricity Transmission Plc's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

(3) National Grid must supply the undertaker with regular updates in relation to the Proposed NGET Projects and the Proposed NGET Projects Sites including (but not limited to) providing plans for the Proposed NGET Projects and the anticipated programme of works for the Proposed NGET Projects.

Access

14. If in consequence of the agreement reached in accordance with paragraph 6(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid Electricity Transmission Plc to maintain or use the apparatus no less effectively than was possible before such obstruction.

15. Arbitration

16. Save for differences or disputes arising under paragraph 7(2), 7(4) 8(1) and 9 any difference or dispute arising between the undertaker and National Grid Electricity Transmission Plc under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, be determined by arbitration in accordance with article 39 (arbitration).

Notices

17. Notwithstanding article 47 (service of notices), any plans submitted to National Grid Electricity Transmission Plc by the undertaker pursuant to paragraph 9 must be submitted using the LSBUD system (<https://lsbud.co.uk/>) or to such other address as National Grid Electricity Transmission Plc may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 8

Protection for National Gas Transmission Plc

Application

1.—(1) For the protection of National Gas as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Gas.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Gas, where the benefit of this Order is transferred or granted to another person under article 6 (*benefit of the Order*)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Gas and the transferee or grantee (as the case may be) in all cases where the transfer of the benefit relates to any specified works; and
- (b) written notice of the transfer or grant must be given to National Gas on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Gas (but without prejudice to 11(3)b).

Interpretation

2. In this Part of this Schedule—

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: (i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance must be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance must include (without limitation):

- (a) a waiver of subrogation and an indemnity to principal clause in favour of National Gas;
- (b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than

£10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either—

- (a) a parent company guarantee from a parent company in favour of National Gas to cover the undertaker’s liability to National Gas to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas and where required by National Gas, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or
- (b) a bank bond or letter of credit from an acceptable credit provider in favour of National Gas to cover the undertaker’s liability to National Gas for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Gas to enable National Gas to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by National Gas for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Gas for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Gas (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, requires the undertaker to submit for National Gas’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Gas: construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Gas” means National Gas Transmission plc (Company Number 02006000) whose registered office is at National Grid House, Warwick Technology Park, Gallows Hill,

Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Network Code” means the network code prepared by National Gas pursuant to Standard Special Condition A11(3) of its Gas Transporter’s Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of National Gas’s Gas Transporters Licence, as both documents are amended from time to time;

“Network Code Claims” means any claim made against National Gas by any person or loss suffered by National Gas under the Network Code arising out of or in connection with any failure by National Gas to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised works or any costs and/or expenses incurred by National Gas as a result of or in connection with, it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which may arise as a result of the authorised works;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“parent company” means a parent company of the undertaker acceptable to and which has been approved by National Gas acting reasonably ;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 6(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 6(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Gas’s policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Gas, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW/22.

“undertaker” means the undertaker as defined in article 2(1) of this Order;

On Street Apparatus

3. Except for paragraphs 4 (apparatus of National Gas in stopped up streets), 8 (retained apparatus: protection), 9 (expenses) and 10 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Gas, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Gas are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Gas in stopped up streets

4. Notwithstanding the temporary stopping up or diversion of any streets under the powers of article 11 (temporary stopping up of public rights of way) or article 12 (temporary stopping up of streets), National Gas is at liberty at all times to take all necessary access across any such stopped up street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street.

Acquisition of land

5.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not—

- (a) appropriate or acquire or take temporary possession of any land or apparatus of National Gas; or
- (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Gas,

otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Gas and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Gas or affect the provisions of any enactment or agreement regulating the relations between National Gas and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Gas reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Gas and the undertaker acting reasonably and which must be no less favourable on the whole to National Gas unless otherwise agreed by National Gas, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between National Gas and the undertaker, the undertaker and National Gas agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Gas and/or other enactments relied upon by National Gas as of right or other use in relation to the apparatus, then the provisions in this Schedule prevails.

(4) Any agreement or consent granted by National Gas under paragraph 8 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Gas to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Gas in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Gas advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Gas reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Gas to its satisfaction (taking into account paragraph 7(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Gas may in its sole discretion, on receipt of a

written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for National Gas to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Gas and the undertaker.

(5) National Gas must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Gas of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Gas facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Gas and must be no less favourable on the whole to National Gas than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Gas.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Gas than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 14 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Gas as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

8.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Gas a plan and, if reasonably required by National Gas, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to National Gas under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the specified works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation and positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must consider the existing pipeline's cathodic protection system and provide an earthing assessment where required by National Gas.

(4) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until National Gas has given written approval of the plan so submitted.

(5) Any approval of National Gas required under sub-paragraph (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (7); and,
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (1) and/or (2) apply, National Gas may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan submitted under sub-paragraph (1) or as relevant sub paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Gas and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Gas for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Gas will be entitled to watch and inspect the execution of those works.

(8) Where National Gas requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Gas's satisfaction prior to the commencement of any specified works for which protective works are required and National Gas must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Gas in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Gas notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub paragraph (12) at all times;

(12) At all times when carrying out any works authorised under the Order National Gas must comply with National Gas's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Gas, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(-G)47 Avoiding Danger from underground services".

(13) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that National Gas retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 9.

Expenses

9.—(1) Save where otherwise agreed in writing between National Gas and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Gas within 30 days of receipt of an invoice or claim from National Gas all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Gas in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Gas in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Gas as a consequence of National Gas;
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 6(3); or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Gas;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 14 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Gas by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Gas in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Gas any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Gas, or there is any interruption in any service provided, or in the supply of any goods or energy, by National Gas, or National Gas becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Gas the cost reasonably and properly incurred by National Gas in making good such damage or restoring the supply; and
- (b) indemnify National Gas for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Gas, by reason or in consequence of any such damage or interruption or National Gas becoming liable to any third party and including Network Code Claims other than arising from any default of National Gas.

(2) The fact that any act or thing may have been done by National Gas on behalf of the undertaker or in accordance with a plan approved by National Gas or in accordance with any requirement of National Gas or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (2) unless National Gas fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Gas, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Gas as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 6 (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-paragraph 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 10; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) National Gas must give the undertaker reasonable notice of any such claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Gas must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Gas must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Gas’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Gas’s control and, if reasonably requested to do so by the undertaker, National Gas must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Gas or in respect of which National Gas has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Gas's apparatus until the following conditions are satisfied—

- (a) unless and until National Gas is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it will maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas has confirmed the same to the undertaker in writing; and
- (b) unless and until National Gas is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Gas that it will maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with 10(7) of this Part of this Schedule, nothing in this Part of this Schedule prevents National Gas from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

11. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Gas and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Gas in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

12.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Gas requires the removal of apparatus under paragraph 6(2) or National Gas makes requirements for the protection or alteration of apparatus under paragraph 8, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Gas's undertaking and National Gas must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Gas's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

13. If in consequence of the agreement reached in accordance with paragraph 5(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Gas to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

14. Save for differences or disputes arising under paragraph 6(2), 6(4), 7(1) and 8 any difference or dispute arising between the undertaker and National Gas under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Gas, be determined by arbitration in accordance with article 39 (arbitration).

Notices

15. Notwithstanding article 47 (service of notices), any plans submitted to National Gas by the undertaker pursuant to paragraph 8 must be submitted to <https://lsbud.co.uk/> or such other address as National Gas may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 9

Protection for Cadent Gas Limited

Application

1. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipelines, pipes, pressure governors, ventilators, cathodic protection (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to, or maintained by, Cadent for the purposes of Cadent’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“Cadent” means Cadent Gas Limited (Company Number 10080864) whose registered office is at Cadent, Pilot Way, Ansty, Coventry, England, CV7 9JU and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Cadent’s undertaking” means the rights, duties and obligations of Cadent as a public gas transporter within the meaning of Section 7 of the Gas Act 1986;

“commence” and “commencement” in this Part of this Schedule include any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, and intrusive investigations for the purpose of assessing ground conditions;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent: retain, lay, construct, inspect, protect, access, enlarge, replace, renew, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“rights” includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 6(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 6(2) or otherwise; or
- (c) include any of the activities that are referred to in CD/SP/SSW/22 Cadent’s policies for safe working in proximity to gas apparatus Specification for safe working in the vicinity of Cadent Assets.

On street apparatus

3.—(1) This Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

- (a) paragraphs 4 (apparatus of Cadent in stopped up streets), 8 (retained apparatus: protection of Cadent), 9 (expenses) and 10 (indemnity); and
- (b) where sub-paragraph (2) applies, paragraphs 6 (removal of apparatus) and 7 (facilities and rights for alternative apparatus).

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Notwithstanding any powers in the Order, section 85 of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

(4) The Protective Provisions in this Part of this Schedule apply and take precedence over article 10 of the Order.

Apparatus of Cadent in stopped up streets

4.—(1) Where any street is stopped up under the Order, if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph affects any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 6.

(2) Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 11 (temporary stopping up of public rights of way) or article 12 (temporary stopping up of streets), Cadent will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street.

Acquisition of land

5.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land owned by Cadent or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement with Cadent.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Cadent and/or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure and/or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Where:

- (a) Cadent has provided its written approval of the specified works under paragraph 8;
- (b) approval of the specified works is determined to have been given by Cadent under paragraph 14; or
- (c) approval of the authorised works is not required under paragraph 8,

upon request by the undertaker, Cadent must take such reasonable action as is necessary in order to confirm Cadent's approval or consent pursuant to any lease, licence, easement, deed, notice or other property document, including the written communication of Cadent's consent to the relevant works to any third party as may be required under the terms of any easement or other interest in land of Cadent affecting the relevant works.

(4) Save where otherwise agreed in writing between Cadent and the undertaker, the undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(5) Any agreement or consent granted by Cadent under paragraph 7 or any other paragraph of this Part of this Schedule, will be taken to constitute agreement under sub-paragraph (1).

(6) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement and/or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(7) Where an undertaker acquires the freehold of any land which is subject to any easement or other interest in land held by Cadent which is registrable and the provisions of paragraph 6 do not apply, the undertaker must, unless Cadent agrees otherwise—

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

6.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 5, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the satisfaction of Cadent (acting reasonably) and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Cadent to its satisfaction (taking into account paragraph 7(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker or settled by arbitration.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed or settled, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3) to Cadent's satisfaction, acting reasonably, proceed without unnecessary

delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent (in Cadent's opinion, acting reasonably) than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject will be referred to arbitration in accordance with paragraph 14 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

8.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the specified works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation and positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions; and
- (b) must not be unreasonably withheld or delayed.

(5) For the purposes of sub-paragraph (4)(b) it will be deemed to be reasonable for any approval to be refused if Cadent considers that the specified works would:

- (a) cause material interference with or material risk of damage to its apparatus; or
- (b) prevent access to its apparatus at any time.

(6) In relation to any work to which sub-paragraphs (1) and/or (2) apply Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and
- (b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(8) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(9) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works (including such an event attributable to its maintenance)—

- (a) the undertaker must implement an appropriate ground mitigation scheme; and
- (b) Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 9.

(12) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with

- (a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and
- (b) Sub-paragraph (13) at all times.

(13) In this paragraph, “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

(14) At all times when carrying out any works authorised under the Order the undertaker must comply with Cadent's policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of Cadent Assets CAD//SP/SSW/22” and HSE's “HS(~G)47 Avoiding Danger from underground services”.

Expenses

9.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent within 30 days of receipt of an invoice or claim all charges, costs and expenses reasonably anticipated or reasonably and properly incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the negotiation and/or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent;
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 6(3) if it elects to do so; and/or

- (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 8(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 14 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person

employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and
- (b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and
- (b) any part of the authorised works carried out by Cadent in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 6 (benefit of the Order) of the Order.

(4) Cadent must give the undertaker reasonable notice of any such claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) Cadent must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies. If requested to do so by the undertaker, Cadent must provide an explanation of how the claim has been minimised. The undertaker is only liable under this paragraph for claims reasonably incurred by Cadent.

Enactments and agreements

11. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

12.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or Cadent requires the removal of apparatus under paragraph 6(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 8, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, Cadent's consent must not be unreasonably withheld or delayed.

Access

13. If in consequence of any agreement reached in accordance with paragraph 5(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

14. Save for differences or disputes arising under sub-paragraphs 6(2) and 6(4) any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 39 (arbitration).

Notices

15. Notwithstanding article 47 (service of notices), any plans submitted to Cadent by the undertaker pursuant to paragraph 8(1) must be sent via email to Cadent Gas Limited Plant Protection at plantprotection@cadentgas.com copied by e-mail to [REDACTED]@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 10

Protection for Network Rail Infrastructure Limited

1. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 15 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

2. In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under—

- (a) the Railways Act 1993;
- (b) the network licence; and/or
- (c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 4 (Power to maintain the authorised project) in respect of such works.

3.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

4.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 3 (development consent etc. granted by the Order);
- (b) article 4 (power to maintain the authorised project);
- (c) article 17 (discharge of water);
- (d) article 18 (authority to survey and investigate the land onshore);
- (e) article 20 (compulsory acquisition of land);
- (f) article 22 (compulsory acquisition of rights);
- (g) article 23 (private rights);
- (h) article 26 (acquisition of subsoil only or airspace only);
- (i) article 28 (temporary use of land for carrying out the authorised project);
- (j) article 29 (temporary use of land for maintaining authorised project);
- (k) article 30 (statutory undertakers);
- (l) article 36 (felling or lopping of trees and removal of hedgerows);
- (m) article 37 (trees subject to tree preservation orders);
- (n) the powers conferred by section 11(3) (power of entry) of the 1965 Act;
- (o) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;

- (p) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;
- (q) any powers in respect of the temporary possession of land under the Neighbourhood Planning Act 2017;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 30 (statutory undertakers), or article 23 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

5.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and

safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property;
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property;

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

7. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

8. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

9.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker not less than 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under

paragraph 5(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 10(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

10. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 5(3) or in constructing any protective works under the provisions of paragraph 5(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

11.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and
- (d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 39 (Arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

12. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property,

the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

13. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

14. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

15.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such claims or demands; and
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and
- (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands and use reasonable endeavors to provide the Undertaker with any correspondence (subject to confidentiality requirements, laws and obligations) associated with mitigating liabilities.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) In no circumstances is the Undertaker liable to Network Rail under sub-paragraph (1) for any indirect or consequential loss or loss of profits, save that the sums payable by the Undertaker under that sub-paragraph include a sum equivalent to the relevant costs in circumstances where—

- (a) Network Rail is liable to make payment of the relevant costs pursuant to the terms of an agreement between Network Rail and a train operator; and

- (b) the existence of that agreement and the extent of Network Rail's liability to make payment of the relevant costs pursuant to its terms has previously been disclosed in writing to the Undertaker, but not otherwise.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub paragraph (4).

(7) In this paragraph—

“the relevant costs” means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

16. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

17. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

18. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

19. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

20. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 6 (benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

21. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 40 (certification of plans etc.) are

certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

22. In relation to any dispute arising under this part of this Part of this Schedule (except for those disputes referred to in paragraph 11) the provisions of article 39 (Arbitration) shall not apply and—

- (a) any dispute or difference arising between the parties as to their respective rights, duties and obligations under these provisions or as to any matters arising out of it or in connection with the subject matters of these provisions must, in the first instance, be referred to a representative of Network Rail and a representative of the undertaker, each of whom holding a senior management position. Those representatives shall meet as soon as possible and shall endeavour in good faith to resolve any dispute or difference amicably.
- (b) The representative of the undertaker shall be the relevant programme Director(s) and the representative of Network Rail shall be the Director, Route Asset Management or, in either case, such other person as may be notified to the other party from time to time.
- (c) Any dispute or difference arising between the parties as to their respective rights, duties and obligations (other than a dispute as to land compensation which must be referred to the Upper Tribunal), which cannot be resolved as set out above is to be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

PART 11

Protection for Perenco Gas (UK) Limited, Perenco North Sea Limited, Everard Energy Limited, Ithaca MA Limited, and RockRose (UKCS2) Limited

Application

1. The following provisions apply for the protection of the owner from time to time of the Excalibur Assets, the Galahad Assets, the Lancelot Assets, the Malory Assets, the Pickerill Assets and the Waveney Assets.

Interpretation

2. In this Part of this Schedule—

“assets” means the Excalibur Assets, the Galahad Assets, the Lancelot Assets, the Malory Assets, the Pickerill Assets and the Waveney Assets;

“aviation corridor” means the 1400 metre wide corridor of clear airspace (measured tip to tip from one wind turbine generator to another) as shown delineated in grey and annotated and shown as the ‘aviation corridor’ on the Perenco protective provisions plan;

“block” means a block of the United Kingdom Continental Shelf designated as such on the map deposited at the principal office of the North Sea Transition Authority;

“co-existence and proximity agreement” means an agreement entered on reasonable terms between the undertaker and the owner in respect of the undertaker’s works and owner’s works to reconcile and protect the interests of the parties as are known at the time to secure the implementation of the undertaker’s works and the owner’s works;

“Excalibur Assets” means the facilities and infrastructure owned, operated, leased or otherwise contracted to the owner for the purposes of the Excalibur Licence or, following relinquishment of the Excalibur Licence, the facilities and infrastructure subject to a decommissioning programme related to the Excalibur Licence approved by OPRED, including the Excalibur platform annotated as the ‘Excalibur Platform’ on the Perenco protective provisions plan;

“Excalibur Licence” means United Kingdom Petroleum Production Licence P461 in respect of block 48/12c and United Kingdom Petroleum Production Licence P025 in respect of block 48/17a and 48/17b in relation to the Excalibur Assets;

“Excalibur to Lancelot communications corridor” means a cylindrical shaped corridor, with a 50 metre radius cross section, centred on the communication line between the Excalibur Assets and the Lancelot Assets in the axial direction (said communication line as shown coloured pink and annotated and shown as the ‘Excalibur to Lancelot communications line’ on the Perenco protective provisions plan);

“Galahad Assets” means the facilities and infrastructure owned, operated, leased or otherwise contracted to the owner for the purposes of the Galahad Licence or, following relinquishment of the Galahad Licence, the facilities and infrastructure subject to a decommissioning programme related to the Galahad Licence approved by OPRED, including the Galahad platform annotated as the ‘Galahad Platform’ on the Perenco protective provisions plan;

“Galahad Decommissioning Programme” means the decommissioning programme as approved by OPRED and as amended from time to time for the decommissioning of the Galahad Assets;

“Galahad Licence” means the now surrendered United Kingdom Petroleum Production Licence P142 in respect of blocks 48/12a (ALL) and 48/13b (Excluded Area Includes Galahad) in relation to the Galahad Assets;

“Galahad marine corridor” means a 1000 metre wide corridor (being 500 metres either side of the 12 inch diameter Galahad pipeline PL1166 (measured from the centre line of the pipeline)) as shown delineated in black and coloured red and annotated and shown as the ‘Galahad marine corridor’ on the Perenco protective provisions plan;

“Galahad Works” means the decommissioning of the Galahad Assets in accordance with the Galahad Decommissioning Programme, but excluding any post-decommissioning monitoring and evaluation;

“Galahad WTG exclusion zone” means an area of 1200 metre radius measured from the centre of the Galahad Assets production helideck and shown delineated in grey and coloured blue and annotated and shown as the ‘Galahad WTG exclusion zone’ on the Perenco protective provisions plan;

“Lancelot Assets” means the facilities and infrastructure owned, operated, leased or otherwise contracted to the owner for the purposes of the Lancelot Licence or, following relinquishment of the Lancelot Licence, the facilities and infrastructure subject to a decommissioning programme related to the Lancelot Licence approved by OPRED, including the Lancelot platform annotated as the ‘Lancelot Platform’ on the Perenco protective provisions plan;

“Lancelot Licence” means United Kingdom Petroleum Production Licence P25 in respect of blocks 48/17a (HDLA) and 48/18a (HDLA) and United Kingdom Petroleum Production Licence P463 in respect of block 48/17b (LANCE) in relation to the Lancelot Assets;

“Lancelot to Waveney communications corridor” means a cylindrical shaped corridor, with a 50 metre radius cross section, centred on the communication line between the Lancelot Assets and the Waveney Assets in the axial direction (said communication line as shown coloured blue and annotated and shown as the ‘Lancelot to Waveney communications line’ on the Perenco protective provisions plan);

“licences” means the Excalibur Licence, the Galahad Licence, the Lancelot Licence, the Malory Licence, the Pickerill Licence and the Waveney Licence;

“licensee” means the licensee from time to time of the relevant licences;

“Malory Assets” means the facilities and infrastructure owned, operated, leased or otherwise contracted to the owner for the purposes of the Malory Licence or, following relinquishment of the Malory Licence, the facilities and infrastructure subject to a decommissioning programme related to the Malory Licence approved by OPRED, including the Malory platform annotated as the ‘Malory Platform’ on the Perenco protective provisions plan;

“Malory Licence” means United Kingdom Petroleum Production Licence P461 in respect of blocks 48/12f (REST) and 48/12c (REST) and United Kingdom Petroleum Production Licence P844 in respect of block 48/12d (F) in relation to the Malory Assets;

“Malory marine corridor” means a 1000 metre wide corridor as shown cross-hatched blue and annotated and shown as the ‘Malory marine corridor’ on the Perenco protective provisions plan;

“Malory to Excalibur communications corridor” means a cylindrical shaped corridor, with a 50 metre radius cross section, centred on the communication line between the Malory Assets and the Excalibur Assets in the axial direction (said communication line as shown coloured orange and annotated and shown as the ‘Malory to Excalibur communications line’ on the Perenco protective provisions plan);

“Malory Works” means the operation of the Malory Assets in accordance with the Malory Licence and the decommissioning of the Malory Assets in accordance with a decommissioning programme to be approved by OPRED and as amended from time to time, but excluding any post-decommissioning monitoring and evaluation;

“Malory WTG exclusion zone” means an area of 2500 metre radius measured from the centre of the Malory Assets production helideck and shown delineated grey and coloured green and annotated and shown as the ‘Malory WTG exclusion zone’ on the Perenco protective provisions plan;

“ministerial statement” means the written statement given by the Secretary of State for Energy and Climate Change to the UK Parliament regarding Crown Estate Leases for Offshore Renewables Projects on 12 July 2011, or any similar supplementary or replacement policy;

“owner” means the licensee until such time as the relevant licences are relinquished following cessation of production at the relevant assets, and thereafter the party responsible for decommissioning the relevant facilities and infrastructure in accordance with a decommissioning programme approved by OPRED until such time as the OPRED notice is issued;

“owner’s works” means the Galahad Works, the Malory Works and the Pickerill Works;

“OPRED” means the Offshore Petroleum Regulator for Environment and Decommissioning;

“OPRED notice” means a letter or notice from OPRED confirming the acceptance of the close-out report submitted by or on behalf of the relevant owner indicating that OPRED is satisfied that the permanent decommissioning of the Galahad Assets, the Malory Assets or the Pickerill Assets has been completed;

“Perenco protective provisions plan” means the plan entitled the Perenco protective provisions plan and certified as the Perenco protective provisions plan for the purposes of this Part of this Schedule;

“Pickerill Assets” means the facilities and infrastructure owned, operated, leased or otherwise contracted to the owner for the purposes of the Pickerill Licence or the facilities and infrastructure subject to the Pickerill Decommissioning Programme, including the Pickerill A platform annotated as the ‘Pickerill A Platform’ and the Pickerill B platform annotated as the ‘Pickerill B Platform’ on the Perenco protective provisions plan;

“Pickerill Decommissioning Programme” means the decommissioning programme as approved by OPRED and as amended from time to time for the decommissioning of the facilities and infrastructure related to the Pickerill Licence;

“Pickerill Licence” means the United Kingdom Petroleum Production Licence P37, Licence P460, Licence P461 and Licence P463 in respect of block 48/11A, block 48/11B, block 48/12c and block 48/17f in respect of the Pickerill Assets;

“Pickerill marine corridor” means a 1000 metre wide corridor (being 500 metres either side of the 16 inch diameter Pickerill pipeline PL816 and the 24 inch diameter Pickerill pipeline PL818 (measured from the centre line of each pipeline)), as shown cross-hatched black and annotated and shown as the ‘Pickerill marine corridor’ on the Perenco protective provisions plan;

“Pickerill Works” means the decommissioning of the Pickerill Assets in accordance with the Pickerill Decommissioning Programme, but excluding any post-decommissioning monitoring and evaluation;

“relevant activities” means all development activity relating to the carrying on of the undertaker’s works and owner’s works within, or adjacent to the aviation corridor, the communications corridor, the marine corridor or a WTG exclusion zone, including (but not limited to) the preparation of development proposals, the submission of applications for statutory consents associated with those proposals and consultation in respect thereof, the acquisition of or application for new licence oil or gas blocks;

“relevant marine corridor” means—

- (a) the Galahad marine corridor in respect of Galahad Assets;
- (b) the Malory marine corridor in respect of the Malory Assets; and
- (c) the Pickerill marine corridor in respect of the Pickerill Assets;

“undertaker’s works” means the offshore works permitted by this Order;

“Waveney Assets” means the facilities and infrastructure owned, operated, leased or otherwise contracted to the owner for the purposes of the Waveney Licence or, following relinquishment of the Waveney Licence, the facilities and infrastructure subject to a decommissioning programme related to the Waveney Licence approved by OPRED, including the Waveney platform annotated as the ‘Waveney Platform’ on the Perenco protective provisions plan;

“Waveney Licence” means United Kingdom Petroleum Production Licence P780 in respect of block 48/17c (ALL) in respect of the Waveney Assets;

“West Sole A to Excalibur communications corridor” means a cylindrical shaped corridor, with a 50 metre radius cross section, centred on the communication line between the West Sole A platform (located in the area annotated and shown as the ‘West Sole A Platform on the Perenco protective provisions plan) and the Excalibur Assets in the axial direction (said communication line as shown coloured mauve and annotated and shown as the ‘West Sole A to Excalibur communications line’ on the Perenco protective provisions plan);

“West Sole A to Lancelot communications corridor” means a cylindrical shaped corridor, with a 50 metre radius cross section, centred on the communication line between the West Sole A platform (located in the area annotated and shown as the ‘West Sole A Platform on the Perenco protective provisions plan) and the Lancelot Assets in the axial direction (said communication line as shown coloured green and annotated and shown as the ‘West Sole A to Lancelot communications line’ on the Perenco protective provisions plan);

“West Sole A to Malory communications corridor” means a cylindrical shaped corridor, with a 50 metre radius cross section, centred on the communication line between the West Sole A platform (located in the area annotated and shown as the ‘West Sole A Platform on the Perenco protective provisions plan) and the Malory Assets in the axial direction (said communication line as shown coloured yellow and annotated and shown as the ‘West Sole A to Malory communications line’ on the Perenco protective provisions plan);

“West Sole C to Malory communications corridor” means a cylindrical shaped corridor, with a 50 metre radius cross section, centred on the communication line between the West Sole C platform (located in the area annotated and shown as the ‘West Sole C Platform on the Perenco protective provisions plan) and the Malory Assets in the axial direction (said communication line as shown coloured lilac and annotated and shown as the ‘West Sole C to Malory communications line’ on the Perenco protective provisions plan);

Restriction on authorised development

3.—(1) Prior to the completion of the Malory works—

- (a) no foundation (excluding scour protection) of any wind turbine generator, offshore accommodation platform or offshore transformer substation or any permanent ancillary works shall be erected in the Malory marine corridor;

- (b) no cable protection shall exceed 5% of navigable depth referenced to Chart Datum in the Malory marine corridor, unless otherwise approved by the MMO under condition 13)(1)(d)(ii)(bb) of the deemed marine licences set out in Schedule 10 (deemed licence under the 2009 Act – generation assets) and Schedule 11 (deemed licence under the 2009 Act – offshore transmission assets); and
- (c) no part of any wind turbine generator shall be erected in the aviation corridor or the Malory WTG exclusion zone,

unless otherwise agreed in writing between the owner and the undertaker.

(2) Prior to completion of the Galahad works—

- (a) no foundation (excluding scour protection) of any wind turbine generator, offshore accommodation platform or offshore transformer substation or any permanent ancillary works shall be erected in the Galahad marine corridor;
- (b) no cable protection shall exceed 5% of navigable depth referenced to Chart Datum in the Galahad marine corridor, unless otherwise approved by the MMO under condition 13)(1)(d)(ii)(bb) of the deemed marine licences set out in Schedule 10 (deemed licence under the 2009 Act – generation assets) and Schedule 11 (deemed licence under the 2009 Act – offshore transmission assets); and
- (c) no part of any wind turbine generator shall be erected in the Galahad WTG exclusion zone,

unless otherwise agreed in writing between the owner and the undertaker.

(3) Prior to completion of the Pickerill works—

- (a) no foundation (excluding scour protection) of any wind turbine generator, offshore accommodation platform or offshore transformer substation or any permanent ancillary works shall be erected in the Pickerill marine corridor; and
- (b) no cable protection shall exceed 5% of navigable depth referenced to Chart Datum in the Pickerill marine corridor, unless otherwise approved by the MMO under condition 13)(1)(d)(ii)(bb) of the deemed marine licences set out in Schedule 10 (deemed licence under the 2009 Act – generation assets) and Schedule 11 (deemed licence under the 2009 Act – offshore transmission assets)

unless otherwise agreed in writing between the owner and the undertaker.

(4) Until such time as the transmitter or receiver of microwave links forming part of the communications systems permanently ceases to transmit or receive microwave links within the West Sole C to Malory communications corridor—

- (a) no tower forming part of any wind turbine generator shall be erected in the West Sole C to Malory communications corridor, unless otherwise agreed in writing between the owner and the undertaker; and
- (b) no blades forming part of any wind turbine generator shall be erected in the in the West Sole C to Malory communications corridor until the owner has approved the details to be submitted under paragraph 4.

(5) Until such time as the transmitter or receiver of microwave links forming part of the communications systems permanently ceases to transmit or receive microwave links within the West Sole A to Lancelot communications corridor, and the Lancelot to Waveney communications corridor—

- (a) no tower forming part of any wind turbine generator shall be erected in the West Sole A to Lancelot communications corridor, unless otherwise agreed in writing between the owner and the undertaker; and
- (b) no blades forming part of any wind turbine generator shall be erected in the in the West Sole A to Lancelot communications corridor until the owner has approved the details to be submitted under paragraph 4.

(6) Until such time as the transmitter or receiver of microwave links forming part of the communications systems permanently ceases to transmit or receive microwave links within the

West Sole A to Excalibur communications corridor and the Excalibur to Lancelot communications corridor—

- (a) no tower forming part of any wind turbine generator shall be erected in the West Sole A to Excalibur communications corridor, unless otherwise agreed in writing between the owner and the undertaker; and
- (b) no blades forming part of any wind turbine generator shall be erected in the in the West Sole A to Excalibur communications corridor until the owner has approved the details to be submitted under paragraph 4.

(7) Until such time as the transmitter or receiver of microwave links forming part of the communications systems permanently ceases to transmit or receive microwave links within the West Sole A to Malory communications corridor—

- (a) no tower forming part of any wind turbine generator shall be erected in the West Sole A to Malory communications corridor, unless otherwise agreed in writing between the owner and the undertaker; and
- (b) no blades forming part of any wind turbine generator shall be erected in the in the West Sole A to Malory communications corridor until the owner has approved the details to be submitted under paragraph 4.

(8) Until such time as the transmitter or receiver of microwave links forming part of the communications systems permanently ceases to transmit or receive microwave links within the Malory to Excalibur communications corridor—

- (a) no tower forming part of any wind turbine generator shall be erected in the Malory to Excalibur communications corridor, unless otherwise agreed in writing between the owner and the undertaker; and
- (b) no blades forming part of any wind turbine generator shall be erected in the in the Malory to Excalibur communications corridor until the owner has approved the details to be submitted under paragraph 4.

(9) Until such time as the transmitter or receiver of microwave links forming part of the communications systems permanently ceases to transmit or receive microwave links within the West Sole C to Malory communications corridor, the West Sole A to Lancelot communications corridor, the West Sole A to Excalibur communications corridor, the West Sole A to Malory communications corridor or the Malory to Excalibur communications corridor, if any blades forming part of any wind turbine generator prevents the transmission and reception of microwave links within the relevant communication corridor to substantially the same level of performance, reliability and redundancy as existed before the erection of such blades forming part of any wind turbine generator—

- (a) the owner shall notify the undertaker of such interference and provide the undertaker with evidence demonstrating that the transmission and reception of microwave links within the relevant communication corridor is not operating at substantially the same level of performance and reliability as existed before the erection of such blades forming part of any wind turbine generator;
- (b) the undertaker shall procure as soon as is reasonably practicable that such blades will be locked in a position that they do not have any part within the relevant communications corridor until such interference is remediated to the reasonable satisfaction of the owner, provided that, without prejudice to paragraph 3(9)(c), the owner shall, as soon as reasonably practicable upon discovering such interference, use reasonable endeavours to explore opportunities to maintain the transmission and reception between the relevant platforms of microwave links with a substantially similar level of performance, reliability and redundancy to the microwave link affected by temporarily utilising another available and existing communications corridor and, after identifying and successfully testing such option, the owner shall notify the undertaker that such blades do not require to be locked in a position that they do not have any part within the relevant communications corridor; and

- (c) the owner and undertaker shall seek to agree and implement, at the undertaker's cost, a technical solution to ensure substantially the same level of performance, reliability and redundancy of transmission and reception of microwave links between the relevant platforms as existed before the erection of such blades forming part of any wind turbine generator, which may include the use of another available communications corridor permanently.

Submission and approval of plans

4.—(1) Before erecting any blades forming part of any wind turbine generator in the West Sole C to Malory communications corridor, the West Sole A to Lancelot communications corridor, the West Sole A to Excalibur communications corridor, the West Sole A to Malory communications corridor or the Malory to Excalibur communications corridor, the undertaker must submit to the owner a report which demonstrates to the reasonable satisfaction of the owner that the relevant communications corridor will continue to transmit and receive microwave links to substantially the same level of performance and reliability as existed before the erection of such blades forming part of any wind turbine generator and such further particulars available to it as the owner may within 14 days of the receipt of the report reasonably request.

(2) Any approval of the owner required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) shall be deemed to be given if it is—

(i) neither given nor refused; or

(ii) refused without an indication of the grounds for refusal,

within 60 days of the submission of the report submitted under sub-paragraph (1) or where further particulars are submitted under sub-paragraph (1), within 60 days of the submission of those further particulars; and

(c) may be given subject to such reasonable requirements or conditions as the owner may have for ensuring that the relevant communications corridor will continue to transmit and receive microwave links to substantially the same level of performance and reliability as existed before the erection of such blades forming part of any wind turbine generator.

(3) The owner must not withhold approval required under this paragraph except on the ground that the erection of any blades forming part of any wind turbine generator would prevent the transmission and receipt of microwave links in the relevant communications corridor to substantially the same level of performance and reliability as existed before the erection of such blades forming part of any wind turbine generator.

(4) Any refusal under this paragraph must be accompanied by a statement of the grounds of refusal.

Co-existence and proximity agreement

5.—(1) If, at any time the undertaker plans to undertake the undertaker's works or any other work which is in the Malory marine corridor, the Galahad marine corridor or the Pickerill marine corridor, or is within 500m of the Galahad Assets, the Malory Assets, or the Pickerill Assets, the undertaker shall notify the owner and the undertaker and the owner must, unless agreed otherwise, acting reasonably, agree and enter into a co-existence and proximity agreement as soon as reasonably practicable.

(2) the undertaker's works in the locations set out in sub-paragraph (1) must not commence prior to the co-existence and proximity agreement being entered into between the parties, unless it has been agreed by the parties under sub-paragraph (1) that no co-existence and proximity agreement is required.

Provision of information

6. Without prejudice to any other rights or obligations under this Part of this Schedule the owner and the undertaker shall from time to time keep each other informed of relevant activities such that the owner and the undertaker may seek to agree solutions to allow those activities to successfully co-exist as far as reasonably practicable until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the assets.

Arbitration

7. Any difference arising between the undertaker and the owner under this Part shall be referred to and settled by arbitration under article 39 (arbitration).

PART 12

Protection for Shell U.K. Limited and Esso Exploration and Production UK Limited

Application

1. The following provisions apply for the protection of the owner from time to time of The Barque Assets, unless otherwise agreed in writing between the undertaker and the owner.

Interpretation

2. In this Part of this Schedule—

“block” means a block of the United Kingdom Continental Shelf designated as such on the map deposited at the principal office of the North Sea Transition Authority;

“Barque Assets” means the facilities and infrastructure owned, operated, leased or otherwise contracted to the owner for the purposes of the licence or, following relinquishment of the licence, the facilities and infrastructure subject to a decommissioning programme related to the licence approved by OPRED, annotated as the ‘Barque Assets’ on the Shell protective provisions plan;

“coexistence and proximity agreement” means an agreement entered on reasonable terms between the undertaker and the owner in respect of the undertaker’s works and licensee’s works to reconcile and protect the interests of the parties as are known at the time to secure the implementation of the undertaker’s works and the licensee’s works;

“licence” means United Kingdom Petroleum Production Licence P8 in respect of blocks 48/13a and 48/14a in relation to the Barque Assets;

“licensee” means the licensee from time to time of the licences;

“licensee’s works” means the operation of the Barque Assets in accordance with the licence and the decommissioning of the Barque Assets in accordance with a decommissioning programme to be approved by OPRED and as amended from time to time, but excluding any post-decommissioning monitoring and evaluation;

“ministerial statement” means the written statement given by the Secretary of State for Energy and Climate Change to the UK Parliament regarding Crown Estate Leases for Offshore Renewables Projects on 12 July 2011, or any similar supplementary or replacement policy;

“OPRED” means the Offshore Petroleum Regulator for Environment and Decommissioning;

“OPRED notice” means a letter or notice from OPRED confirming the acceptance of the close-out report submitted by or on behalf of the licensee indicating that OPRED is satisfied that the permanent decommissioning of the Barque Assets has been completed;

“owner” means the licensee until such time as the licence is relinquished following cessation of production at the Barque Assets, and thereafter the party responsible for decommissioning

the relevant assets in accordance with a decommissioning programme approved by OPRED until such time as the OPRED notice is issued;

“relevant activities” means all development activity relating to the carrying on of the undertaker’s works and licensee’s works within, or adjacent to the WTG exclusion zone, including (but not limited to) the preparation of development proposals, the submission of applications for statutory consents associated with those proposals and consultation in respect thereof, the acquisition of or application for new licence oil or gas blocks;

“Shell protective provisions plan” means the plan entitled the Shell protective provisions plan and certified as the Shell protective provisions plan for the purposes of this Part of this Schedule;

“undertaker’s works” means the offshore works permitted by this Order;

“WTG exclusion zone” means an area of 2,500 metre radius measured from the centre of the Barque Assets production helideck and shown coloured green and annotated and shown as the ‘WTG exclusion zone’ on the Shell protective provisions plan;

Restriction on authorised development

3. Prior to the completion of the licensee’s works, no part of any wind turbine generator shall be erected in the WTG exclusion zone unless otherwise agreed in writing between the licensee and the undertaker.

Coexistence and proximity agreement

4. If, at any time the undertaker plans to undertake the undertaker’s works or any other work which is within 500m of the Barque Assets, the undertaker shall notify the owner and the undertaker and the owner must, unless agreed otherwise, acting reasonably, agree and enter into a co-existence and proximity agreement as soon as reasonably practicable.

Provision of information

5. Without prejudice to any other rights or obligations under this Part of this Schedule the owner and the undertaker shall from time to time keep each other informed of relevant activities such that the owner and the undertaker may seek to agree solutions to allow those activities to successfully co-exist as far as reasonably practicable until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the licence and taking place within the areas subject to the licence.

Arbitration

6. Any difference arising between the undertaker the owner under this Part shall be referred to and settled by arbitration under article 39 (arbitration).

PART 13

Protection for Lincs Wind Farm Limited

Application

1. 1. The Following provisions shall apply for the protection of Lincs unless otherwise agreed in writing between the undertaker and Lincs.

Interpretation

2. In this Part of this Schedule—

“Lincs” means Lincs Wind Farm Limited, a company registered in Scotland with company number SC213646 and having its registered office at 13 Queens Road, Aberdeen, Scotland, AB15 4YL and any successor with the benefit of the rights to operate the Lincs Offshore Wind Farm;

“Lincs Offshore Wind Farm” means the 270 megawatts wind farm located 8 kilometres off the east coast of England, near Skegness in Lincolnshire;

“Lincs Control Area” means an area, or areas, within the boundaries of Works Nos. 5, 7 and 8 described in Part 1 of Schedule 10 to the Order or any part of that work and which is within a fixed distance extending outwards from the boundary for the Lincs Offshore Windfarm as described on plans prepared by the undertaker;

“Lincs Proximity Agreement” means an agreement setting out the technical and commercial terms governing the interaction between any works authorised by this Order forming part of the Lincs Control Area and the Lincs Offshore Wind Farm; and

“plans” includes designs, drawings, timing schedules, procedures and risk assessments.

Control of works within the Lincs control area

3.—Works within Works Nos. 5, 7 and 8 must not be commenced until:

- (a) Plans of the Lincs Control Area have been submitted to and approved by the Secretary of State; and
- (b) The undertaker has entered into the Lincs Proximity Agreement with Lincs

unless otherwise agreed in writing by the undertaker and Lincs.Arbitration

4. Any difference or dispute arising between the undertaker and Lincs under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Lincs, be determined by arbitration in accordance with article 39 (arbitration).

PART 14

Protection for Race Bank Wind Farm Limited

Application

1. 1. The Following provisions shall apply for the protection of Race Bank unless otherwise agreed in writing between the undertaker and Race Bank.

Interpretation

2. In this Part of this Schedule—

“Race Bank” means Race Bank Wind Farm Limited, a company registered in England and Wales with company number 05017828 and having its registered office at 5 Howick Place, London, England, SW1P 1WG and any successor with the benefit of the rights to operate the Race Bank Offshore Wind Farm;

“Race Bank Offshore Wind Farm” means the 573 megawatts wind farm located approximately 27 kilometres off the east coast of England, near Chapel St Leonards in Lincolnshire;

“Race Bank Control Area” means an area, or areas, within the boundaries of Works Nos. 5, 7 and 8 described in Part 1 of Schedule 10 to the Order or any part of that work and which is within a fixed distance extending outwards from the boundary for the Race Bank Offshore Windfarm as described on plans prepared by the undertaker;

“Race Bank Proximity Agreement” means an agreement setting out the technical and commercial terms governing the interaction between any works authorised by this Order forming part of the Race Bank Control Area and the Race Bank Offshore Wind Farm; and
“plans” includes designs, drawings, timing schedules, procedures and risk assessments.

Control of works within the Race Bank control area

3.—Works within Works Nos. 5, 7 and 8 must not be commenced until:

- (a) Plans of the Race Bank Control Area have been submitted to and approved by the Secretary of State; and
- (b) The undertaker has entered into the Race Bank Proximity Agreement with Race Bank

unless otherwise agreed in writing between the undertaker and Race Bank.

Arbitration

4. Any difference or dispute arising between the undertaker and Race Bank under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Race Bank, be determined by arbitration in accordance with article 39 (arbitration).

PART 15

Protection for Dudgeon Extension Limited

Application

1. The Following provisions shall apply for the protection of DEL unless otherwise agreed in writing between the undertaker and DEL.

Interpretation

2. In this Part of this Schedule—

“Dudgeon Extension Project” means the Dudgeon Offshore Wind Farm Extension Project to be located 26.5km north of the Norfolk Coast;

“DEL” means Dudgeon Extension Limited, a company registered in England and Wales with company number 12148301 and having its registered office at 1 Kingdom Street, London W2 6BD and any successor with the benefit of the rights in relation to the Dudgeon Extension Project under the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024;

“DEP Control Area” means an area, or areas, within the boundaries of Works Nos. 5, 7 and 8 described in Part 1 of Schedule 10 to the Order or any part of that work and which is within a fixed distance extending outwards from the boundary for the Dudgeon Extension Project as described on plans prepared by the undertaker;

“DEP Proximity Agreement” means an agreement setting out the technical and commercial terms governing the interaction between any works authorised by this Order forming part of the DEP Control Area and the Dudgeon Extension Project; and

“plans” includes designs, drawings, timing schedules, procedures and risk assessments.

Control of works within the DEP control area

3.—Works within Works Nos. 5, 7 and 8 must not be commenced until:

- (a) Plans of the DEP Control Area have been submitted to and approved by the Secretary of State; and

(b) The undertaker has entered into the DEP Proximity Agreement with DEL unless otherwise agreed in writing by the undertaker and DEL.

Arbitration

4. Any difference or dispute arising between the undertaker and DEL under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and DEL, be determined by arbitration in accordance with article 39 (arbitration).

SCHEDULE 19

Article 39

Arbitration Rules

Primary objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the Arbitrator is appointed pursuant to article 39 (arbitration) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the Parties, are to be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration is deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

Time periods

2.—(1) All time periods in these Arbitration Rules are measured in days and include weekends but not bank holidays in England and Wales as defined in the Banking and Financial Dealings Act 1971.

(2) Time periods are calculated from the day after the Arbitrator is appointed which is either—

- (a) the date the Arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the Arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the Arbitration is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 14 days of the Arbitrator being appointed, the Claimant must provide both the Respondent and the Arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant’s contentions as to those issues, the amount of its claim and/or the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 14 days of receipt of the Claimant’s statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent must provide the Claimant and the Arbitrator with—

- (a) a written Statement of Defence responding to the Claimant’s Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the

Claimant's claim, its acceptance of any element(s) of the Claimant's claim, its contentions as to those elements of the Claimant's claim it does not accept;

- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports;
- (c) any objections it wishes to make to the Claimant's statements, comments on the Claimant's expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 7 days of the Respondent serving its statements under sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with—

- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
- (c) any expert report in response to the Respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent;
- (e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The seat, or place, of the arbitration must be London, England, the governing law must be the laws of England and Wales and the language of the arbitration proceedings must be English. The proceedings must be conducted in accordance with the Arbitration Act 1996(a), save where modified by these Rules.

(2) The Arbitrator must make an award on the substantive difference(s) based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within 2 business days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within 7 days of receiving the last submission, the Arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within 10 days of the Arbitrator advising the parties that he is to hold a hearing, the date and venue for the hearing must be fixed by agreement with the parties, save that if there is no agreement the Arbitrator must direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(7) There is no process of examination and cross-examination of experts, but the Arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) is—

- (a) at least 28 days before a hearing, the Arbitrator must provide a list of issues to be addressed by the expert(s);

(a) 1996 c.23.

- (b) if more than one expert is called, they are to jointly confer and produce a joint report or reports within 14 days of the issues being provided; and
- (c) the form and content of a joint report must be as directed by the Arbitrator and must be provided at least 7 days before the hearing.

(8) Within 14 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator must take these submissions into account in the award.

(9) Where a party requests an expedited procedure, accompanied by an evidenced reason for expedition, the Arbitrator may vary the timescales in sub paragraphs (3), (4), (5) and (7), but where a party does so, the Arbitrator must provide an opportunity for parties objecting to the effects of an expedited procedure to provide written submissions on that point and may decide to revert to standard timescales in response to such submissions. Where an expedited procedure is sustained, the Arbitrator must set out their reasons for acceding to an expedited timetable in writing, to be given alongside their award.

(10) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(11) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(12) The Arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given is to be proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The Arbitrator has all the powers of the Arbitration Act 1996, including the non-mandatory sections, save where modified by these Rules.

(2) There must be no discovery or disclosure, except that the Arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders are to be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure—

- (a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator must notify the parties that the award is completed, signed and dated, and that it is to be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

Costs

6.—(1) The costs of the Arbitration must include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the Arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The Arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

Confidentiality

7.—(1) Subject to sub-paragraphs (2), (3) and (4), any arbitration hearing and documentation must be open to and accessible by the public.

(2) Where the Arbitration relates to a dispute or difference under the provisions of Schedule 18 (protective provisions), the hearings must take place in private unless otherwise agreed between the parties and any matters, materials, documents, awards, expert reports and the like are confidential and must not be disclosed to any third party without prior written consent of the other party.

(3) The Arbitrator may direct that the whole or part of a hearing is to be private and/or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(4) Nothing in this paragraph prevents any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

Conservatory and Interim Measures

8.—(1) Unless the parties have otherwise agreed, after the arbitration has commenced, the Arbitrator may, at the request of either party, order any conservatory or interim measure it deems appropriate. Any conservatory or interim measure must be in the form of an order, giving reasons, or of an award, as the Arbitrator considers appropriate.

(2) Unless the parties have otherwise agreed, either party may apply to the courts of England and Wales for conservatory or interim measures.

(3) Such application by a party is not deemed to be an infringement or a waiver of the arbitration agreement, and does not affect the relevant powers reserved to the Arbitrator.

SCHEDULE 20

Article 40

Procedure for discharge of requirements

Applications made for certain approvals

1.—(1) Where an application has been made to a discharging authority for any consent, agreement or approval required or contemplated by any of the requirements within Part 3 of Schedule 1 (requirements) to this Order—

- (a) the undertaker must give the discharging authority sufficient information to identify the requirement(s) to which the application relates; and
- (b) the undertaker must provide such particulars, plans and drawings as are reasonably considered necessary to deal with the application.

(2) The discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.

(3) For the purposes of this paragraph, the decision period is—

- (a) where no further information is requested under paragraph 2 (further information), 10 weeks from the day immediately following that on which the application is received by the discharging authority;

- (b) where further information is requested under paragraph 2 (further information) 10 weeks from the day immediately following that on which the further information has been supplied by the undertaker under paragraph 2; or
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (a) or (b).

Further information

2.—(1) In relation to any application to which this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is reasonably necessary to enable it to consider the application.

(2) If the discharging authority considers such further information to be necessary it must, as soon as reasonably practicable and within 28 days of receipt of the application notify the undertaker in writing specifying the further information required.

(3) If the discharging authority does not give such notification as specified in sub-paragraph (2) it is to be deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(4) A discharging authority may request further information under sub-paragraph (1) on more than one occasion provided that all such requests are made within the period specified by sub-paragraph (2).

Appeals

3.—(1) The undertaker may appeal to the Secretary of State in the event that—

- (a) the discharging authority refuses an application for any consent, agreement or approval required or contemplated by a requirement contained within Part 3 of Schedule 1 (requirements) to this Order or grants it subject to conditions to which the undertaker objects;
- (b) the discharging authority does not give notice of its decision to the undertaker within the decision period specified in paragraph 1 (applications made for certain approvals);
- (c) on receipt of a request for further information under paragraph 2 (further information) the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.
- (e) the discharging authority issues a notice further to sections 60 (control of noise on construction sites) or 61 (prior consent for work on construction sites) of the 1974 Act;

(2) The appeal process is as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State, which must include a copy of the application submitted to the discharging authority and any supporting documentation which the undertaker may wish to provide;
- (b) the undertaker must on the same day provide copies of the appeal documentation to the discharging authority and the relevant consultees (if applicable);
- (c) as soon as is practicable after receiving the appeal documentation, but in any event within 28 business days of receiving the appeal documentation, the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention must be sent;
- (d) the discharging authority and the relevant consultees must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under sub-paragraph

- (c) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
 - (e) the appeal parties must make any counter-submissions to the appointed person within 20 business days of receipt of written representations pursuant to sub-paragraph (d) above.
- (3) The appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and within 40 business days of—
- (a) the deadline within sub-paragraph (2)(e); or
 - (b) the deadline for written submissions in respect of further information submitted in accordance with sub-paragraph (5), whichever is later.
- (4) If the appointed person considers that further information is necessary to enable consideration of the appeal the appointed person must, as soon as practicable, and within 10 business days of the deadline for submissions in accordance with sub-paragraph (2)(e), or where further information has already been requested, within 10 business days of the deadline for written submissions in accordance sub-paragraph (5), notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.
- (5) Any further information required under sub-paragraph (4) is to be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 business days of that date.
- (6) On an appeal under this paragraph, the appointed person may—
- (a) allow or dismiss the appeal; or
 - (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),
- and may deal with the application as if it had been made to the appointed person in the first instance.
- (7) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside of the relevant time limits.
- (8) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made.
- (9) The decision of the appointed person on an appeal is to be final and binding on the appeal parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.
- (10) If an approval is given by the appointed person under this Schedule, it is deemed to be an approval for the purpose of any consent, agreement or approval required under Part 3 of Schedule 1 (requirements) as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing, but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.
- (11) Except where a direction is given under sub-paragraph (12) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person are to be met by the undertaker.
- (12) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to Planning Practice Guidance on the award of costs or any circular or guidance which may from time to time replace it.

Fees

4.—(1) Where an application is made to the discharging authority for written consent, agreement or approval in respect of a requirement, the fee prescribed under regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (as may be amended or replaced from time to time) is to apply and must be paid to the discharging authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of —

- (a) the application being rejected as invalidly made; or
- (b) the discharging authority failing to determine the application within the decision period as determined under paragraph 1, unless within that period the undertaker agrees, in writing, that the fee is to be retained by the discharging authority and credited in respect of a future application.

Interpretation of this Schedule

5. In this Schedule—

“the appeal parties” means the discharging authority, the undertaker and any relevant consultees.

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(b);

“discharging authority” means the body responsible for giving consent, agreement or approval pursuant to a requirement within Part 3 of Schedule 1 (requirements) to this Order;

“relevant consultee” means any body named in a requirement which is required to be consulted by the discharging authority in discharging that requirement.

SCHEDULE 21

Article 41

Documents to be certified

PART 1

Documents forming the environmental statement to be certified				
(1) Document Reference	(2) Examination Library Reference	(3) Document Name	(4) Version	(5) Date
6.1	APP-055 to APP-086	Environmental Statement	1	19 March 2024
6.2	APP-087 to APP-139	Figures	1	19 March 2024
6.3	APP-140 to APP-234	Appendices	1	19 March 2024
6.1	REP5-007	Non-Technical Summary	2	13 March 2025
6.1.3	REP5-009	Chapter 3 Project Description	2	13 March 2025
6.1.4	REP5-013	Chapter 4 Site Selection and Consideration of Alternatives	2	13 March 2025
6.1.5	REP5-015	Chapter 5 EIA Methodology	2	13 March 2025

(a) 2012/2920. Regulation 16(1)(b) was amended by S.I. 2023/1197.

(b) 1971 c.80.

6.1.7	REP4a-029	Chapter 7 Marine Physical Processes	2	26 February 2025
6.1.8	REP5-017	Chapter 8 Marine Water and Sediment Quality	3	13 March 2025
6.1.9		Chapter 9 Benthic and Intertidal Ecology	3	4 April 2025
6.1.10	REP5-021	Chapter 10 Fish and Shellfish Ecology	2	13 March 2025
6.1.11		Chapter 11 Marine Mammals	3	4 April 2025
6.1.12	REP4a-011	Chapter 12 Offshore and Intertidal Ornithology	3	26 February 2025
6.1.13	REP5-025	Chapter 13 Marine and Intertidal Archaeology	2	13 March 2025
6.1.14	REP5-027	Chapter 14 Commercial Fisheries	2	13 March 2025
6.1.15	REP5-029	Chapter 15 Shipping and Navigation	2	13 March 2025
6.1.16	REP5-031	Chapter 16 Aviation, Radar, Military and Communication	3	13 March 2025
6.1.17	REP5-033	Chapter 17 Seascape, Landscape and Visual	3	13 March 2025
6.1.18	REP5-035	Chapter 18 Marine Infrastructure and Other Users	2	13 March 2025
6.1.19	REP4a-013	Chapter 19 Onshore Air Quality	3	26 February 2025
6.1.20	REP5-037	Chapter 20 Onshore Archaeology and Cultural Heritage	3	13 March 2025
6.1.21	REP5-039	Chapter 21 Onshore Ecology	2	13 March 2025
6.1.22	REP5-041	Chapter 22 Onshore Ornithology	2	13 March 2025
6.1.22	REP5-043	Chapter 22 Onshore Ornithology [Confidential]	2	13 March 2025
6.1.23	REP4a-015	Chapter 23 Geology and Ground Conditions	2	26 February 2025
6.1.24	REP4a-017	Chapter 24 Onshore Hydrology Hydrogeology and Flood Risk	2	26 February 2025
6.1.25		Chapter 25 Land Use	4	4 April 2025
6.1.26	REP4a-021	Chapter 26 Noise and Vibration	2	26 February 2025
6.1.27	REP4a-023	Chapter 27 Traffic and Transport	3	26 February 2025
6.1.28	REP4a-025	Chapter 28 Landscape and Visual Assessment	2	26 February 2025
6.1.29	REP4a-127	Chapter 29 Socio-Economic Characteristics	2	26 February 2025
6.1.30	AS1-054	Chapter 30 Human Health	2	31 July 2024
6.1.31	REP5-011	Chapter 31 Climate Change	2	13 March 2025
6.2.3	REP5-045	Chapter 3 Project Description Figures	2	13 March 2025
6.2.4	REP5-046	Chapter 4 Site Selection and Consideration of Alternatives Figures	2	13 March 2025
6.2.5	REP5-047	Chapter 5 EIA Methodology Figures	2	13 March 2025
6.2.7	REP4a-041	Chapter 7 Marine Physical Processes Figures (Part 1 of 2)	2	26 February 2025
6.2.7	REP4a-042	Chapter 7 Marine Physical Processes Figures (Part 2 of 2)	2	26 February 2025
6.2.8	REP5-048	Chapter 8 Marine Water and Sediment Quality Figures	3	13 March 2025
6.2.9	REP5-049	Chapter 9 Benthic and Intertidal	2	13 March 2025

		Ecology Figures		
6.2.10	REP5-050	Chapter 10 Fish and Shellfish Ecology Figures (Part 1 of 2)	2	13 March 2025
6.2.10	REP5-051	Chapter 10 Fish and Shellfish Ecology Figures (Part 2 of 2)	2	13 March 2025
6.2.11	REP5-052	Chapter 11 Marine Mammals Figures	2	13 March 2025
6.2.12	REP4a-030	Chapter 12 Offshore and Intertidal Ornithology Figures	2	26 February 2025
6.2.13	REP5-053	Chapter 13 Marine and Intertidal Archaeology Figures	2	13 March 2025
6.2.14	REP5-054	Chapter 14 Commercial Fisheries Figures	2	13 March 2025
6.2.15	REP5-055	Chapter 15 Shipping and Navigation Figures	2	13 March 2025
6.2.16	REP5-056	Chapter 16 Aviation, Radar, Military and Communication Figures	2	13 March 2025
6.2.17	REP5-057	Chapter 17 Seascape, Landscape and Visual Figures (Part 1 of 3)	3	13 March 2025
6.2.17	REP5-058	Chapter 17 Seascape, Landscape and Visual Figures (Part 2 of 3)	3	13 March 2025
6.2.17	REP5-059	Chapter 17 Seascape, Landscape and Visual Figures (Part 3 of 3)	3	13 March 2025
6.2.18	REP5-060	Chapter 18 Marine Infrastructure and Other Users Figures	2	13 March 2025
6.2.19	REP4a-031	Chapter 19 Onshore Air Quality Figures	2	26 February 2025
6.2.21	REP5-061	Chapter 21 Onshore Ecology Figures (Part 1 of 2)	3	13 March 2025
6.2.21	REP5-062	Chapter 21 Onshore Ecology Figures (Part 2 of 2)	2	13 March 2025
6.2.22	REP5-063	Chapter 22 Onshore Ornithology Figures	2	13 March 2025
6.2.23	REP4a-032	Chapter 23 Geology and Ground Conditions Figures	3	26 February 2025
6.2.24	REP4a-033	Chapter 24 Onshore Hydrology Hydrogeology and Flood Risk Figures	2	26 February 2025
6.2.25		Chapter 25 Land Use Figures	4	4 April 2025
6.2.26	REP4a-035	Chapter 26 Noise and Vibration Figures	2	26 February 2025
6.2.27	REP4a-036	Chapter 27 Traffic and Transport Figures	3	26 February 2025
6.2.28	REP4a-037	Chapter 28 Landscape and Visual Assessment Figures (Part 1 of 15)	2	26 February 2025
6.2.28	REP4a-038	Chapter 28 Landscape and Visual Assessment Figures (Part 2 of 15)	2	26 February 2025
6.2.28	REP4a-039	Chapter 28 Landscape and Visual Assessment Figures (Part 3 of 15)	2	26 February 2025
6.3.3.2		Chapter 3 Appendix 2 Onshore Crossing Schedule	8	4 April 2025
6.3.5.2	REP5-064	Chapter 5 Appendix 2 Offshore Cumulative Effects Assessment Approach	2	13 March 2025
6.3.5.3	REP5-066	Chapter 5 Appendix 3 Onshore Cumulative Effects Assessment	2	13 March 2025

		Approach		
6.3.7.1	AS-003	Chapter 7 Appendix 1 Physical Processes Technical Baseline	2	29 May 2024
6.3.9.2	REP4a-069	Chapter 9 Appendix 2 Benthic Ecology Technical Report (ECC)	4	26 February 2025
6.3.9.6	REP4a-070	Chapter 9 Appendix 6 Envision Offshore Export Cable Corridor Sabellaria Spinulosa Reanalysis and Report	3	26 February 2025
6.3.10.1	REP5-068	Chapter 10 Appendix 1 Fish and Shellfish Ecology Technical Baseline	2	13 March 2025
6.3.11.2	REP5-070	Chapter 11 Appendix 2 Underwater Noise Assessment	2	13 March 2025
6.3.11.3		Interim population consequences of disturbance modelling report (cumulative)	1	4 April 2025
6.3.12.1	REP4a-043	Chapter 12 Appendix 1 Intertidal and Offshore Ornithology Technical Baseline	3	26 February 2025
6.3.12.2	REP4a-044	Chapter 12 Appendix 2 Collision Risk Modelling	2	26 February 2025
6.3.12.3	REP4a-045	Chapter 12 Appendix 3 Displacement Assessment	2	26 February 2025
6.3.12.4	REP4a-046	Chapter 12 Appendix 4 Population Viability Analysis	2	26 February 2025
6.3.12.5	REP4a-047	Chapter 12 Appendix 5 Migratory Collision Risk Modelling	3	26 February 2025
6.3.12.6	REP4-018	Chapter 12 Appendix 6 MRSea Modelling for Offshore Ornithology	2	3 February 2025
6.3.12.7	REP4a-048	Chapter 12 Appendix 7 Levels of precaution in the assessment and compensation calculations for offshore ornithology	2	26 February 2025
6.3.12.8	REP4a-050	Chapter 12 Appendix.8 Consideration of bioseasons in the assessment of guillemot	2	26 February 2025
6.3.12.9	REP4a-052	Appendix 12.9 Rates of displacement in guillemot and razorbill	2	26 February 2025
6.3.15.1	REP5-072	Chapter 15 Appendix 1 Navigational Risk Assessment	2	13 March 2025
6.3.18.2	REP5-075	Chapter 18 Appendix 2 Helicopter Access Report – Hornsea One and Two RCS	1	13 March 2025
6.3.19.1	AS1-066	Chapter 19 Appendix 1 Construction Phase Dust Assessment Methodology	2	31 July 2024
6.3.19.4	REP4a-054	Chapter 19 Appendix 4 Road Traffic Dispersion Modelling	2	26 February 2025
	REP5-076	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 1 of 10)	2	13 March 2025
6.3.20.1				
	REP5-079	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 2a of 10)	2	13 March 2025
6.3.20.1				

6.3.20.1	REP5-080	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 2b of 10)		13 March 2025
6.3.20.1	REP5-081	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 3 of 10)	2	13 March 2025
6.3.20.1	REP5-082	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 4 of 10)	2	13 March 2025
6.3.20.1	REP5-084	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 5 of 10)	2	13 March 2025
6.3.20.1	REP5-085	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 6 of 10)	2	13 March 2025
6.3.20.1	REP5-086	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 7 of 10)	2	13 March 2025
6.3.20.1	REP5-087	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 8 of 10)	2	13 March 2025
6.3.20.1	REP5-088	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 9 of 10)	2	13 March 2025
6.3.20.1	REP5-078	Chapter 20 Appendix 1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment (Part 10 of 10)	2	13 March 2025
6.3.21.5	REP5-098	Chapter 21 Appendix 5 Badger Desk Study and Field Survey CONFIDENTIAL	2	13 March 2025
6.3.22.2	REP5-089	Chapter 22 Appendix 2 Ornithology Desk Study Annex [Confidential]	2	13 March 2025
6.3.22.3	REP5-091	Chapter 22 Appendix 3 Winter Bird Survey 2022-2023 Part 1 of 4	2	13 March 2025
6.3.22.3	REP5-093	Chapter 22 Appendix 3 Winter Bird Survey 2022-2023 Part 2 of 4	2	13 March 2025
6.3.22.3	REP5-094	Chapter 22 Appendix 3 Winter Bird Survey 2022-2023 Part 3 of 4	2	13 March 2025
6.3.22.3	REP5-095	Chapter 22 Appendix 3 Winter Bird Survey 2022-2023 Part 4 of 4	2	13 March 2025
6.3.22.7`	REP5-096	Chapter 22 Appendix 7 Winter Bird Survey 2023-2024	2	13 March 2025
6.3.22.8	REP5-097	Additional clarifications relating to Natural England's Relevant Representations (Appendix I Onshore Ornithology)	2	13 March 2025
6.3.23.1	REP4a-056	Chapter 23 Appendix 1 Preliminary	3	26 February

		Land Quality Risk Assessment		2025
6.3.24.1	REP4a-058	Chapter 24 Appendix 1 Groundwater Risk Assessment	2	26 February 2025
6.3.24.2	REP4-022; REP4-024	Chapter 24 Appendix 2 Flood Risk Assessment: Onshore ECC and 400kV Cable Corridor	4	3 February 2025
6.3.24.3	REP4-027 to REP4-028	Chapter 24 Appendix 3 Flood Risk Assessment: Onshore Substation	2	3 February 2025
6.3.25.1	REP4a-060	Chapter 25 Appendix 1 BMV Regional and National Context	1	26 February 2025
6.3.26.4	REP4a-061	Chapter 26 Appendix 4 Noise Model Outputs	2	26 February 2025
6.3.27.1	REP4a-063	Chapter 27 Appendix 1 Transport Assessment	3	26 February 2025
6.3.27.1	REP4a-066	Chapter 27 Appendix 1 Transport Assessment Annex A Special Order AIL Swept Path Analysis	3	26 February 2025
6.3.27.1	AS1-088	Chapter 27 Appendix 1 Transport Assessment Annex B DfT Traffic Data	2	31 July 2024
6.3.27.1	AS1-089	Chapter 27 Appendix 1 Transport Assessment Annex C Automatic Traffic Count Data	2	31 July 2024
6.3.27.1	AS1-090	Chapter 27 Appendix 1 Transport Assessment Annex F Construction Access General Arrangement Drawings	2	31 July 2024
6.3.27.1	AS1-091	Chapter 27 Appendix 1 Transport Assessment Annex G Core and Local Construction Vehicle Access Routes	2	31 July 2024
6.3.27.1	REP4a-065	Chapter 27 Appendix 1 Transport Assessment Annex I Public Rights of Way	2	26 February 2025
6.3.27.1	AS1-092	Chapter 27 Appendix 1 Transport Assessment Annex J Trip Generation Calculations	2	31 July 2024
6.3.27.1	AS1-093	Chapter 27 Appendix 1 Transport Assessment Annex K Daylight Hours Availability	2	31 July 2024
6.3.27.1	AS1-094	Chapter 27 Appendix 1 Transport Assessment Annex N Passing Place Proposals	2	31 July 2024
6.3.31.1	REP5-100	Chapter 31 Appendix 1 Carbon payback sensitivity analysis: wake effects	1	13 March 2025
15.6	PD1-074	Erratum to Site Selection Report	1	19 September 2024
15.7	REP4-095	Noise Bund Hydraulic Modelling Report including Appendix C Figures (Part 1 of 4)	3	3 February 2025
15.7	REP4-096	Noise Bund Hydraulic Modelling Report Appendix C Figures (Part 2 of 4)	3	3 February 2025
15.7	REP4-097	Noise Bund Hydraulic Modelling Report Appendix C Figures (Part 3 of 4)	3	3 February 2025

15.7	REP4-098	Noise Bund Hydraulic Modelling Report Appendix C Figures (Part 4 of 4)	3	3 February 2025
15.8	PD1-080	Onshore Archaeological Geophysical Report	1	19 September 2024
15.9	PD1-081	Environmental Report for the Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor	1	19 September 2024
15.9A	PD1-082 to PD1-083	Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix A Figures	1	19 September 2024
15.9B	PD1-084	Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix B Blockage Modelling Results	1	19 September 2024
15.9C	PD1-085	Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix C Underwater Noise Modelling Report	1	19 September 2024
15.9D	PD1-086	Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix D Ornithology Baseline Summary	1	19 September 2024
15.9E	PD1-087	Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix E Collision Risk Modelling	1	19 September 2024
15.9F	PD1-088	Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix F Offshore Ornithology Displacement Assessment	1	19 September 2024
15.9G	PD1-089	Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix G MRSea Modelling for Offshore Ornithology	1	19 September 2024
15.9H	PD1-090	Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix H Review of Obstacle Free Zone Impact on Shipping Displacement and Collision Risk	1	19 September 2024
15.15	PD1-097	Disposal Site Characterisation Report	1	19 September 2024

PART 2

Other Documents to be certified

<i>(1) Document Reference</i>	<i>(2) Examination Library Reference</i>	<i>(3) Document Name</i>	<i>(4) Version</i>	<i>(5) Date</i>
2.1	REP4a-002	Works plans onshore	4	26 February

				2025
2.2	REP4a-003	Works plans offshore	4	26 February 2025
2.5		Land plans	8	4 April 2025
2.8	PD1-011	Offshore order limits and grid coordinates plan	3	19 September 2024
2.9	PD1-012	Access to works plan	3	19 September 2024
2.10	REP4a-004	Public rights of way plan	5	26 February 2025
2.11	PD1-014	Streets plan	3	19 September 2024
2.17	PD1-020	Important hedgerows and tree preservation order plan	3	19 September 2024
2.20	PD1-023	Traffic regulation order plan	3	19 September 2024
4.1		Book of reference	9	4 April 2025
7.6.1		Sandbank compensation plan	4	4 April 2025
7.6.2		Biogenic reef compensation plan	4	4 April 2025
7.7.1		Kittiwake compensation plan	3	4 April 2025
7.7.2		Guillemot compensation plan	3	4 April 2025
7.7.3		Razorbill compensation plan	3	4 April 2025
8.1		Outline code of construction practice	8	4 April 2025
8.1.1	REP2-031	Outline noise and vibration management plan	2	27 November 2024
8.1.2		Outline air quality management plan	3	4 April 2025
8.1.3		Outline soil management plan	7	4 April 2025
8.1.4	APP-272	Outline pollution prevention and emergency incident response plan	1	19 March 2024
8.1.5	APP-273	Outline surface water drainage strategy	1	19 March 2024
8.1.6	APP-274	Outline site waste management plan	1	19 March 2024
8.1.7	REP4a-081	Outline Organic Land Protocol	2	26 February 2025
8.2	REP4a-092	Outline offshore operations and maintenance plan	2	26 February 2025
8.3		Offshore In principle monitoring plan	3	4 April 2025
8.4	REP4a-094	Outline project environmental management plan	2	26 February 2025
8.5		Outline cable specification and installation plan	7	4 April 2025
8.6.1		Outline marine mammal mitigation protocol (piling)	6	4 April 2025
8.7		In principle Southern North Sea SAC Site Integrity Plan	4	4 April 2025
8.8	PD1-050	Outline marine archaeological written scheme of investigation	2	19 September 2024
8.9	REP4-088	Outline onshore written scheme of investigation for archaeological works	4	3 February 2025
8.10		Outline landscape and ecological management strategy	8	4 April 2025
8.10		Outline landscape and ecological management strategy [Confidential]	8	4 April 2025
8.11	APP-285	Outline operational artificial light	1	19 March 2024

		emissions management plan		
8.12	APP-286	Outline operational drainage management plan	1	19 March 2024
8.14	PD1-060	Outline fisheries liaison and coexistence plan	2	19 September 2024
8.15	REP4a-088	Outline construction traffic management plan	3	26 February 2025
8.16	APP-290	Outline travel plan	1	19 March 2024
8.17	REP4a-090	Outline public access management plan	4	26 February 2025
8.18	REP5-125	Design approach document	3	13 March 2025
8.19	REP5-127	Design principles statement	3	13 March 2025
8.20	REP4a-102	Outline vessel management plan	4	26 February 2025
8.21		Outline scour protection and cable protection management plan	5	4 April 2025
8.22	REP2-043	Outline biogenic reef mitigation plan	3	27 November 2024
8.23	REP4-081	Outline offshore reactive compensation platform lighting management plan	1	3 February 2025
8.24		Spawning Herring Piling Restriction Plan	1	4 April 2025
21.14	REP4-119	Shell protective provisions plan	1	3 February 2025
21.15	REP4-120	Perenco protective provisions plan	1	3 February 2025
21.16	REP4a-112	Offshore reactive compensation platform design principles statement	2	26 February 2025
21.21		NGET Protective provisions plan	2	4 April 2025

SCHEDULE 22

Article 46

Compensation provisions

PART 1

Flamborough and Filey Coast Special Protection Area: Kittiwake Compensation Measures

1. In this Part—

“the artificial nesting measure” means the offshore nesting structure(s) and/or the onshore nesting structure(s);

“Defra” means the Department for Environment, Food and Rural Affairs;

“the FFC” means the site designated as the Flamborough and Filey Coast Special Protection Area;

“kittiwake CIMP” means the kittiwake compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult kittiwakes from the FFC as a result of the authorised development;

“kittiwake compensation plan” means the document certified as the kittiwake compensation plan for the purposes of this Order by the Secretary of State under article 41 (certification of plans etc.);

“KCSG” means the Kittiwake Compensation Steering Group; and

“Marine Recovery Fund” means the fund operated by Defra pursuant to the Offshore Wind Environmental Improvement Package of the British Energy Security Strategy (April 2022), the Energy Act 2023 or any subordinate legislation made pursuant thereto, for the implementation of strategic compensation or any equivalent fund established for that purpose;

2. Work No. 1 may not be commenced until a plan for the work of the KCSG has been submitted to and approved by the Secretary of State. Such plan must include—

- (a) terms of reference of the KCSG;
- (b) details of the membership of the KCSG which must include the relevant statutory nature conservation body and, where appropriate, the MMO and/or the relevant planning authority as core members;—
- (c) details of the proposed schedule of meetings, timetable for preparation of the Kittiwake CIMP and reporting and review periods; and
- (d) the dispute resolution mechanism.

3. Following consultation with the KCSG the Kittiwake CIMP must be submitted to the Secretary of State for approval, in consultation with the relevant statutory nature conservation body and, where appropriate, the MMO and/or the relevant planning authority.

4. The Kittiwake CIMP must be based on the strategy for kittiwake compensation set out in the Kittiwake Compensation Plan and include—

- (a) where the artificial nesting measure is proposed to be taken forward—
 - (i) details of the locations where the compensation measure will be delivered, and in the event an onshore nesting structure is required, details of landowner agreement(s) and in the event an offshore nesting structure is required, details of any relevant seabed agreement(s);
 - (ii) details of the design of the artificial nesting structure, including the projected number of nests that will be accommodated on the structure, and how risks from avian or mammalian predation and unauthorised human access will be mitigated;
 - (iii) an implementation timetable for the delivery of the artificial nesting structure that ensures that the structure is in place to allow for at least three full kittiwake breeding seasons prior to operation of any turbine forming part of the authorised development. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 April in each year and ended on 30 September;
 - (iv) details of the maintenance schedule for the artificial nesting structure;
 - (v) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures;
 - (vi) monitoring must include annual monitoring of the number of birds colonising the site including nesting attempts and nest productivity;
 - (vii) provision for annual reporting to the Secretary of State, to include details of the use of the artificial nesting structure by breeding kittiwake to identify barriers to success and target any adaptive management measures in consultation with the KCSG; and
 - (viii) recording of KCSG consultations ;

- (b) where the undertaker elects to pay a contribution to the Marine Recovery Fund wholly or partly in substitution for the artificial nesting measure or as an adaptive management measure—
 - (i) the compensation which is to be secured through the Marine Recovery Fund;
 - (ii) the sum of the contribution, to be agreed between the undertaker and Defra or other body responsible for the operation of the Marine Recovery Fund in consultation with the KCSG; and
 - (iii) the timescales for payment of the contribution to the Marine Recovery Fund.
- (c) where the undertaker elects to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the artificial nesting measure or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the KCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.
- (d) where the undertaker elects to collaborate with another party in the delivery of compensation measures wholly or partly in substitution for the artificial nesting measure or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the KCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.

5. The undertaker must implement the measures set out in the Kittiwake CIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and, where appropriate, the MMO and/or the relevant planning authority. In particular, no operation of any turbine forming part of the authorised development may begin until three full breeding seasons following the implementation of the measures set out in the Kittiwake CIMP have elapsed. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 April in each year and ended on 30 September.

6. The undertaker must notify the Secretary of State of—

- (a) completion of implementation of the artificial nesting measure referred to in paragraph 4(a);
- (b) payment into the Marine Recovery Fund referred to in paragraph 4(b);
- (c) payment of a financial contribution towards the establishment of compensation measures by another party referred to in paragraph 4(c); and
- (d) completion of implementation of collaborative measures referred to in paragraph 4(d),

7. The artificial nesting measure must not be decommissioned without written approval of the Secretary of State in consultation with relevant statutory nature conservation body. The artificial nesting structures must, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body, be maintained beyond the operational lifetime of the authorised development if they are colonised.

8. The Kittiwake CIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved Kittiwake CIMP must be in accordance with the principles set out in the kittiwake compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the kittiwake compensation plan.

PART 2

Flamborough and Filey Coast Special Protection Area and Farne Islands Special Protection Area: Guillemot Compensation Measures

1. In this Part—

“the artificial nesting measure” means the provision of offshore nesting structure(s) and/or onshore nesting structure(s);

“Defra” means the Department for Environment, Food and Rural Affairs;

“the disturbance reduction and habitat improvement measure” means the measure to reduce disturbance, improve habitat and/or introduce predator control measures at key nesting sites.

“the Farne Islands” means the site designated as the Farne Islands Special Protection Area;

“the FFC” means the site designated as the Flamborough and Filey Coast Special Protection Area;

“GCSG” means the Guillemot Compensation Steering Group;

“Guillemot CIMP” means the guillemot compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult guillemots from the FFC and the Farne Islands as a result of the authorised development;

“guillemot compensation measure” means the artificial nesting measure, disturbance reduction and habitat improvement measure or the predator eradication measure;

“guillemot compensation plan” means the document certified as the guillemot compensation plan for the purposes of this Order by the Secretary of State under article 41 (certification of plans etc.);

“Marine Recovery Fund” means the fund operated by Defra pursuant to the Offshore Wind Environmental Improvement Package of the British Energy Security Strategy (April 2022), the Energy Act 2023 or any subordinate legislation made pursuant thereto, for the implementation of strategic compensation or any equivalent fund established for that purpose;

“the predator eradication measure” means the program of predator eradication and provision of predator proof fencing at the Plemont Reserve on Jersey;

2. Work No. 1 may not be commenced until a plan for the work of the GCSG has been submitted to and approved by the Secretary of State. Such plan to include—

- (a) terms of Reference of the GCSG;
- (b) details of the membership of the GCSG which must include the relevant statutory nature conservation body and, where appropriate, the MMO and/or the relevant planning authority as core members;
- (c) details of the proposed schedule of meetings, timetable for preparation of the Guillemot CIMP and reporting and review periods; and
- (d) the dispute resolution mechanism.

3. Following consultation with the GCSG, the Guillemot CIMP must be submitted to the Secretary of State for approval in consultation with the relevant statutory nature conservation body and, where appropriate, the MMO and/or the relevant planning authority.

4. The Guillemot CIMP must be based on the strategy for guillemot compensation set out in the guillemot compensation plan and include—

- (a) where the predator eradication measure is proposed to be taken forward—
 - (i) details of the location(s) where the compensation measure will be delivered;
 - (ii) details of how any necessary land access rights, licences and approvals have or will be obtained and how any biosecurity measures will be or have been secured;
 - (iii) details of the party that will carry out the measure and how this has been secured;
 - (iv) an implementation timetable for delivery of the predator eradication measure, such timetable to ensure that the predator eradication measure has commenced no later than one year prior to the installation of any tower comprised within a wind turbine generator forming part of the authorised development;
 - (v) recording of GCSG consultations;
 - (vi) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures;
 - (vii) provision for annual reporting to the Secretary of State, to include details of the use of the location(s) by breeding guillemot to identify barriers to success and target any adaptive management measures;
- (b) where the disturbance reduction and habitat improvement measure is proposed to be taken forward—
 - (i) details of the location(s) where the compensation measure will be delivered;
 - (ii) details of how any necessary land access rights, licences and approvals have or will be obtained;
 - (iii) an implementation timetable for delivery of the disturbance reduction and habitat improvement measure, such timetable to ensure that the disturbance reduction and habitat improvement measure has commenced no later than one year prior to the installation of any tower comprised within a wind turbine generator forming part of the authorised development;
 - (iv) recording of GCSG consultations;
 - (v) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures; and
 - (vi) provision for annual reporting to the Secretary of State, to include details of the use of the location(s) by breeding guillemot to identify barriers to success and target any adaptive management measures;
- (c) where the artificial nesting measure is proposed to be taken forward—
 - (i) details of the locations where the compensation measure will be delivered, and in the event an onshore nesting structure is proposed, details of landowner agreement(s) and in the event an offshore nesting structure is proposed, details of any relevant seabed agreement(s);
 - (ii) details of the design of the artificial nesting structure, including the projected number of nests that will be accommodated on the structure, and how risks from avian or mammalian predation and unauthorised human access will be mitigated;
 - (iii) an implementation timetable for the delivery of the artificial nesting structure;
 - (iv) details of the maintenance schedule for the artificial nesting structure;
 - (v) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and

- details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures;
 - (vi) monitoring must include annual monitoring of the number of birds colonising the site including nesting attempts and nest productivity;
 - (vii) provision for annual reporting to the Secretary of State, to include details of the use of the artificial nesting structure by breeding guillemot to identify barriers to success and target any adaptive management measures in consultation with the GCSG; and
 - (viii) recording of GCSG consultations ;
- (d) where the undertaker elects to pay a contribution to the Marine Recovery Fund wholly or partly in substitution for one or more of the guillemot compensation measures or as an adaptive management measure—
 - (i) the compensation which is to be secured through the Marine Recovery Fund;
 - (ii) the sum of the contribution, to be agreed between the undertaker and Defra or other body responsible for the operation of the Marine Recovery Fund in consultation with the GCSG; and
 - (iii) the timescales for payment of the contribution to the Marine Recovery Fund.
- (e) where the undertaker elects to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for one or more of the guillemot compensation measures or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the GCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.
- (f) where the undertaker elects to collaborate with another party in the delivery of compensation measures wholly or partly in substitution for one or more of the guillemot compensation measures or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the GCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.

5. The undertaker must implement the measures set out in the Guillemot CIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and where appropriate the MMO and/or the relevant planning authority.

6. The undertaker must notify the Secretary of State of—

- (a) the completion of the predator eradication measure referred to in paragraph 4(a);
- (b) the completion of the disturbance reduction and habitat improvement measure referred to in paragraph 4(b);
- (c) the completion of implementation of the artificial nesting measure referred to in paragraph 4(c);
- (d) payment into the Marine Recovery Fund referred to in paragraph 4(d);

- (e) payment of a financial contribution towards the establishment of compensation measures by another party referred to in paragraph 4(e); and
- (f) completion of implementation of collaborative measures referred to in paragraph 4(f),

to the extent that such measures are set out within the Guillemot CIMP approved by the Secretary of State.

7. The artificial nesting measure must not be decommissioned without written approval of the Secretary of State in consultation with relevant statutory nature conservation body. The artificial nesting structures must, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body, be maintained beyond the operational lifetime of the authorised development if they are colonised.

8. The Guillemot CIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved Guillemot CIMP must be in accordance with the principles set out in the guillemot compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the guillemot compensation plan.

PART 3

Flamborough and Filey Coast Special Protection Area: Razorbill Compensation Measures

1. In this Part—

“the artificial nesting measure” means the provision of offshore nesting structure(s) and/or onshore nesting structure(s);

“Defra” means the Department for Environment, Food and Rural Affairs;

“the disturbance reduction and habitat improvement measure” means the measure to reduce disturbance, improve habitat and/or introduce predator control measures at key nesting sites.

“the FFC” means the site designated as the Flamborough and Filey Coast Special Protection Area;

“RCSG” means the Razorbill Compensation Steering Group;

“Razorbill CIMP” means the razorbill compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult razorbills from the FFC as a result of the authorised development;

“razorbill compensation measure” means the artificial nesting measure, the disturbance reduction and habitat improvement measure or the predator eradication measure;

“razorbill compensation plan” means the document certified as the razorbill compensation plan for the purposes of this Order by the Secretary of State under article 41 (certification of plans etc.);

“Marine Recovery Fund” means the fund operated by Defra pursuant to the Offshore Wind Environmental Improvement Package of the British Energy Security Strategy (April 2022), the Energy Act 2023 or any subordinate legislation made pursuant thereto, for the implementation of strategic compensation or any equivalent fund established for that purpose;

“the predator eradication measure” means the program of predator eradication and provision of fencing at the Plemont Reserve on Jersey;

2. Work No. 1 may not be commenced until a plan for the work of the RCSG has been submitted to and approved by the Secretary of State. Such plan to include—

- (a) terms of Reference of the RCSG;

- (b) details of the membership of the RCSG which must include the relevant statutory nature conservation body and, where appropriate, the MMO and/or the relevant planning authority as core members;
- (c) details of the proposed schedule of meetings, timetable for preparation of the Razorbill CIMP and reporting and review periods; and
- (d) the dispute resolution mechanism.

3. Following consultation with the RCSG, the Razorbill CIMP must be submitted to the Secretary of State for approval in consultation with the relevant statutory nature conservation body and, where appropriate, the MMO and/or the relevant planning authority.

4. The Razorbill CIMP must be based on the strategy for razorbill compensation set out in the razorbill compensation plan and include—

- (a) where the predator eradication measure is proposed to be taken forward—
 - (i) details of the location(s) where the compensation measure will be delivered;
 - (ii) details of how any necessary land access rights, licences and approvals have or will be obtained and how any biosecurity measures will be or have been secured;
 - (iii) details of the party that will carry out the measure and how this has been secured;
 - (iv) an implementation timetable for delivery of the predator eradication measure, such timetable to ensure that the predator eradication measure has commenced no later than one year prior to the installation of any tower comprised within a wind turbine generator forming part of the authorised development;
 - (v) recording of RCSG consultations;
 - (vi) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures;
 - (vii) provision for annual reporting to the Secretary of State, to include details of the use of the location(s) by breeding razorbill to identify barriers to success and target any adaptive management measures;
- (b) where the disturbance reduction and habitat improvement measure is proposed to be taken forward—
 - (i) details of the location(s) where the compensation measure will be delivered;
 - (ii) details of how any necessary land access rights, licences and approvals have or will be obtained;
 - (iii) an implementation timetable for delivery of the disturbance reduction and habitat improvement measure, such timetable to ensure that the disturbance reduction and habitat improvement measure has commenced no later than one year prior to the installation of any tower comprised within a wind turbine generator forming part of the authorised development;
 - (iv) recording of RCSG consultations;
 - (v) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures; and
 - (vi) provision for annual reporting to the Secretary of State, to include details of the use of the location(s) by breeding razorbill to identify barriers to success and target any adaptive management measures;
- (c) where the artificial nesting measure is proposed to be taken forward—

- (i) details of the locations where the compensation measure will be delivered, and in the event an onshore nesting structure is proposed, details of landowner agreement(s) and in the event an offshore nesting structure is proposed, details of any relevant seabed agreement(s);
- (ii) details of the design of the artificial nesting structure, including the projected number of nests that will be accommodated on the structure, and how risks from avian or mammalian predation and unauthorised human access will be mitigated;
- (iii) an implementation timetable for the delivery of the artificial nesting structure;
- (iv) details of the maintenance schedule for the artificial nesting structure;
- (v) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures;
- (vi) monitoring must include annual monitoring of the number of birds colonising the site including nesting attempts and nest productivity;
- (vii) provision for annual reporting to the Secretary of State, to include details of the use of the artificial nesting structure by breeding razorbill to identify barriers to success and target any adaptive management measures in consultation with the RCSG; and
- (viii) recording of RCSG consultations ;
- (d) where the undertaker elects to pay a contribution to the Marine Recovery Fund wholly or partly in substitution for one or more of the razorbill compensation measures or as an adaptive management measure—
 - (i) the compensation which is to be secured through the Marine Recovery Fund;
 - (ii) the sum of the contribution, to be agreed between the undertaker and Defra or other body responsible for the operation of the Marine Recovery Fund in consultation with the RCSG; and
 - (iii) the timescales for payment of the contribution to the Marine Recovery Fund.
- (e) where the undertaker elects to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for one or more of the razorbill compensation measures or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the RCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.
- (f) where the undertaker elects to collaborate with another party in the delivery of compensation measures wholly or partly in substitution for one or more of the razorbill compensation measures or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the RCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.

5. The undertaker must implement the measures set out in the Razorbill CIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and where appropriate the MMO and/or the relevant planning authority.

6. The undertaker must notify the Secretary of State of—

- (a) the completion of the predator eradication measure referred to in paragraph 4(a);
- (b) the completion of the disturbance reduction and habitat improvement measure referred to in paragraph 4(b);
- (c) the completion of implementation of the artificial nesting measure referred to in paragraph 4(c);
- (d) payment into the Marine Recovery Fund referred to in paragraph 4(d);
- (e) payment of a financial contribution towards the establishment of compensation measures by another party referred to in paragraph 4(e); and
- (f) completion of implementation of collaborative measures referred to in paragraph 4(f),

to the extent that such measures are set out within the Razorbill CIMP approved by the Secretary of State.

7. The artificial nesting measure must not be decommissioned without written approval of the Secretary of State in consultation with relevant statutory nature conservation body. The artificial nesting structures must, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body, be maintained beyond the operational lifetime of the authorised development if they are colonised.

8. The Razorbill CIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved Razorbill CIMP must be in accordance with the principles set out in the razorbill compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the razorbill compensation plan.

PART 4

Inner Dowsing, Race Bank, and North Ridge Special Area of Conservation: Sandbank Compensation Measures

1. In this Part—

“the biogenic reef seeding measure” means the creation of biogenic reef comprising seeding of oyster and/or blue mussel beds within the IDRBNR SAC;

“Defra” means the Department for Environment, Food and Rural Affairs;

“the IDRBNR SAC” means the site designated as the Inner Dowsing Race Bank and North Ridge Special Area of Conservation;

“Marine Recovery Fund” means the fund operated by Defra pursuant to the Offshore Wind Environmental Improvement Package of the British Energy Security Strategy (April 2022), the Energy Act 2023 or any subordinate legislation made pursuant thereto, for the implementation of strategic compensation or any equivalent fund established for that purpose;

“the removal of aggregate industry pressures measure” means the measure to purchase all or part of the quantity of aggregate removal permitted by one or more existing marine licences from the marine licence holder(s) so that the quantity purchased is not removed;

“the removal of redundant infrastructure measure” means the removal of redundant infrastructure such as telecommunication cables from sandbank habitat;

“the SAC extension measure” means the extension of the boundary of a SAC;

“Sandbank CIMP” means the sandbank compensation implementation and monitoring plan for the delivery of measures to compensate for impacts on sandbanks within the IDRBNR SAC as a result of the authorised development;

“sandbank compensation measure” means the biogenic reef seeding measure, the SAC extension measure, the removal of aggregate industry pressures measure, or the removal of redundant infrastructure measure;

“sandbank compensation plan” means the document certified as the sandbank compensation plan for the purposes of this Order by the Secretary of State under article 41 (certification of plans etc.); and

“SCSG” means the sandbank compensation steering group;

2. To the extent located within the IDRBNR SAC, Work No. 5 may not be commenced until a plan for the work of the SCSG has been submitted to and approved by the Secretary of State. Such plan to include—

- (a) terms of Reference of the SCSG;
- (b) details of the membership of the SCSG which must include the relevant statutory nature conservation body and, where appropriate, the MMO as core members;
- (c) details of the proposed schedule of meetings, timetable for preparation of the Sandbank CIMP and reporting and review periods; and
- (d) the dispute resolution mechanism.

3. Following consultation with the SCSG, the Sandbank CIMP must be submitted to the Secretary of State for approval in consultation with the MMO and relevant statutory nature conservation body.

4. The Sandbank CIMP must be based on the strategy for sandbank compensation set out in the sandbank compensation plan and must include—

- (a) where the biogenic reef seeding measure is proposed to be taken forward—
 - (i) details of the locations where the compensation measure will be delivered, and details of any relevant seabed agreement(s);
 - (ii) details of the methodology for preparing and seeding the mussel and/or oyster bed(s);
 - (iii) an implementation timetable for the delivery of the biogenic reef seeding measure;
 - (iv) details of measures to protect and/or restore the biogenic reef
 - (v) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures;
- (b) where the SAC extension measure is proposed to be taken forward—
 - (i) details of the method and level of support provided to Defra and relevant statutory nature conservation bodies;
 - (ii) estimated timescales for completing the designation; and
 - (iii) details of engagement in respect of monitoring and reporting of monitoring.
- (c) where the removal of redundant infrastructure measure is proposed to be taken forward—
 - (i) details of any further survey work required to confirm the location of redundant infrastructure;
 - (ii) details of the locations where the compensation measure will be delivered, the redundant infrastructure to be removed and details of any agreement(s) with infrastructure owners;

- (iii) a method statement for the removal of the redundant infrastructure, to include the vessel type, tools used and mitigation for how impacts on the surrounding habitat will be minimised;
 - (iv) an implementation timetable for removal;
 - (v) recording of SCSG consultations; and
 - (vi) details of any monitoring/reporting to understand the recovery of the sandbank feature as a result of the measure
- (d) where the removal of aggregate industry pressures measure is proposed to be taken forward—
 - (i) details of the locations where the compensation measure will be delivered, the area and volume of aggregate removal to be prevented and details of any agreement(s) with aggregate removal marine licence holders;
 - (ii) an implementation timetable for the delivery of the removal of aggregate industry pressures measure;
 - (iii) recording of SCSG consultations; and
 - (iv) details of any monitoring/reporting to understand the ecological function and/or recovery of the sandbank feature as a result of the measure;
- (e) where the undertaker elects to pay a contribution to the Marine Recovery Fund wholly or partly in substitution for one or more of the sandbank compensation measures or as an adaptive management measure—
 - (i) the sum of the contribution, to be agreed between the undertaker and Defra or other body responsible for the operation of the Marine Recovery Fund in consultation with the SCSG.
- (f) where the undertaker elects to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for one or more of the sandbank compensation measures or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the SCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.
- (g) where the undertaker elects to collaborate with another party in the delivery of compensation measures wholly or partly in substitution for one or more of the sandbank compensation measures or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the SCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.

5. The undertaker must implement the measures set out in the Sandbank CIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the MMO and relevant statutory nature conservation body.

6. The undertaker must notify the Secretary of State of—

- (a) completion of implementation of the biogenic reef seeding measure referred to in paragraph 4(a);
- (b) completion of the SAC extension measure referred to in paragraph 4(b);
- (c) completion of the removal of redundant infrastructure measure referred to in paragraph 4(c);
- (d) completion of removal of aggregate industry pressures measure referred to in paragraph 4(d);
- (e) payment into the Marine Recovery Fund referred to in paragraph 4(e);
- (f) payment of a financial contribution towards the establishment of compensation measures by another party referred to in paragraph 4(f); and
- (g) completion of implementation of collaborative measures referred to in paragraph 4(g).

7. The Sandbank CIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved Sandbank CIMP must be in accordance with the principles set out in the sandbank compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the sandbank compensation plan.

PART 5

Inner Dowsing, Race Bank, and North Ridge Special Area of Conservation: Biogenic Reef Compensation Measures

1. In this Part—

“biogenic reef compensation measure” means the biogenic reef seeding measure or the SAC extension measure;

“Biogenic Reef CIMP” means the biogenic reef compensation implementation and monitoring plan for the delivery of measures to compensate for impacts on *Sabellaria spinulosa* reef within the IDRBNR SAC as a result of the authorised development;

“biogenic reef compensation plan” means the document certified as the biogenic reef compensation plan for the purposes of this Order by the Secretary of State under article 41 (certification of plans etc.)

“the biogenic reef seeding measure” means the creation of biogenic reef comprising seeding of oyster and/or blue mussel beds within the IDRBNR SAC;

“BRCSG” means the biogenic reef compensation steering group;

“Defra” means the Department for Environment, Food and Rural Affairs;

“the IDRBNR SAC” means the site designated as the Inner Dowsing Race Bank and North Ridge Special Area of Conservation;

“Marine Recovery Fund” means the fund operated by Defra pursuant to the Offshore Wind Environmental Improvement Package of the British Energy Security Strategy (April 2022), the Energy Act 2023 or any subordinate legislation made pursuant thereto, for the implementation of strategic compensation or any equivalent fund established for that purpose; and

“the SAC extension measure” means the extension of the boundary of a SAC.

2. To the extent located within the IDRBNR SAC, Work No. 5 may not be commenced until a plan for the work of the BRCSG has been submitted to and approved by the Secretary of State. Such plan to include—

- (a) terms of Reference of the BRCSG;
- (b) details of the membership of the BRCSG which must include the relevant statutory nature conservation body and, where appropriate, the MMO as core members;

- (c) details of the proposed schedule of meetings, timetable for preparation of the Biogenic Reef CIMP and reporting and review periods; and
- (d) the dispute resolution mechanism.

3. Following consultation with the BRCSG, the Biogenic Reef CIMP must be submitted to the Secretary of State for approval in consultation with the MMO and relevant statutory nature conservation body.

4. The Biogenic Reef CIMP must be based on the strategy for biogenic reef compensation set out in the biogenic reef compensation plan and must include—

- (a) where the biogenic reef seeding measure is proposed to be taken forward—
 - (i) details of the locations where the compensation measure will be delivered, and details of any relevant seabed agreement(s);
 - (ii) details of the methodology for preparing and seeding the mussel and/or oyster bed(s);
 - (iii) an implementation timetable for the delivery of the biogenic reef seeding measure;
 - (iv) details of measures to protect and/or restore the biogenic reef
 - (v) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures;
- (b) where the SAC extension measure is proposed to be taken forward—
 - (i) details of the method and level of support provided to Defra and relevant statutory nature conservation bodies;
 - (ii)) estimated timescales for completing the designation; and
 - (iii) details of engagement in respect of monitoring and reporting of monitoring;
- (c) where the undertaker elects to pay a contribution to the Marine Recovery Fund wholly or partly in substitution for one or more of the biogenic reef compensation measures or as an adaptive management measure—
 - (i) the sum of the contribution, to be agreed between the undertaker and Defra or other body responsible for the operation of the Marine Recovery Fund in consultation with the BRCSG.
- (d) where the undertaker elects to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for one or more of the biogenic reef compensation measures or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the BRCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.
- (e) where the undertaker elects to collaborate with another party in the delivery of compensation measures wholly or partly in substitution for one or more of the biogenic reef compensation measures or as an adaptive management measure—
 - (i) the technical specification and implementation timetable for the delivery of the compensation measure(s) to be agreed between the undertaker and the other party in consultation with the BRCSG; and
 - (ii) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management

measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative compensation measures and/or adaptive management measures.

5. The undertaker must implement the measures set out in the Biogenic Reef CIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the MMO and relevant statutory nature conservation body.

6. The undertaker must notify the Secretary of State of—

- (a) completion of implementation of the biogenic reef seeding measure referred to in paragraph 4(a);
- (b) completion of the SAC extension measure referred to in paragraph 4(b);
- (c) payment into the Marine Recovery Fund referred to in paragraph 4(c);
- (d) payment of a financial contribution towards the establishment of compensation measures by another party referred to in paragraph 4(d); and
- (e) completion of implementation of collaborative measures referred to in paragraph 4(e).

7. The Biogenic Reef CIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved Biogenic Reef CIMP must be in accordance with the principles set out in the biogenic reef compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the biogenic reef compensation plan.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises the construction, operation and maintenance of an offshore wind farm generating station located in the North Sea approximately 54km from the Lincolnshire coastline together with associated development. This Order imposes requirements in connection with the development and authorises the compulsory acquisition of land (including rights in land) and the right to use land and to override easements and other rights.

This Order also grants deemed marine licences under Part 4 of the Marine and Coastal Access Act 2009 in connection with the offshore wind farm. The marine licences impose conditions in connection with the deposits and works for which they grant consent.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 41 (certification of plans etc.) of this Order may be inspected free of charge at [].

**APPENDIX F: COMPULSORY ACQUISITION, TEMPORARY
POSSESSION, LAND AND RIGHTS OBJECTIONS
CONSIDERED IN WRITTEN AND ORAL PROCESSES**

APPENDIX F: COMPULSORY ACQUISITION, LAND AND RIGHTS OBJECTIONS CONSIDERED IN WRITTEN AND ORAL PROCESSES

Table 1 Compulsory Acquisition (CA), Temporary Possession (TP), Land and Rights Objections Considered in Written and Oral Processes

This section records affected persons (APs) and other persons with relevant objections to aspects of the applicant's CA, TP, land or rights request whose objections were considered based on written submissions only and written submissions accompanied by a request to be heard orally. It should be read in conjunction with the applicant's final version of the Book of Reference (BoR) [REP4-013] and the land rights tracker (LRT) [REP6-081], which under each AP reference number (AP Ref No) lists: the status of the objection; the plots for each land interest; identifies those subject to CA of land, CA of permanent rights and TP of rights over land (as shown on the Land Plans [REP6-004] and [REP6-005] in pink, blue and yellow respectively); the proposed works on those plots and the status of negotiations at the end of the examination.

LRT – AP Ref No	Name of Land Interest	Position with Regard to a Negotiated Agreement at the end of the examination	ExA's Consideration and Conclusions
		Heads of Terms (HoT) / Agreement	
184202	George Hay & Sons Limited	Draft under discussion. Not completed	The land interest is the owner of areas of land comprising plots 43-047, 49-003, 49-004, 49-005, 49-006, 49-011, over which the applicant is seeking temporary rights and plots 48-023, 48-024, 48-025, 49-007, 49-009, 49-010, 50-003, 50-004, 50-005, 51-007, 51-008, 51-009, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust

			contamination, liability, occupier's consent, preservation of terms agreed under the Heads of Terms and the provision of incorrect documentation. In addition, the land interest raised specific concerns in relation to non-commercial terms and excessive option area sought for the works associated with the 400 kilovolt (kV) connection area. The land interest made further representation on this matter at compulsory acquisition hearing 2 (CAH2) [EV14-002] and [EV14-004] confirming that it had entered into an agreement with the applicant for areas of land where the cable corridor route was more clearly defined, but that it was not comfortable with heads of terms proposed by the applicant which covered a less well defined area of approximately 200 acres. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The Examining Authority (ExA) is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the draft DCO (dDCO) [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which George Hay and Sons Limited has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
192872	G-Veg Limited	Draft under discussion. Not completed	The land interest is the owner of areas of land comprising plots 28-013, 29-003, 29-006, 29-007, over which the applicant is seeking temporary rights and plots 28-014, 29-005, 29-008, for which the applicant is seeking to acquire permanent rights.

			The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the Heads of Terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which G-Veg Limited has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
305425	William Alfred Holmes	Draft under discussion. Agreed	The land interest is the owner of areas of land comprising plot 39-006, over which the applicant is seeking temporary rights and plot 39-010, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, liability, reinstatement of land drainage, occupiers and crop loss and encumbering land.

			The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which William Alfred Holmes has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
305427	Alice Elizabeth Holmes	Draft under discussion. Agreed	The land interest is the owner of areas of land comprising plot 39-006, over which the applicant is seeking temporary rights and plot 39-010, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, liability, reinstatement of land drainage, occupiers and crop loss and encumbering land. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement.

			The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Alice Elizabeth Holmes has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
193139	Paul Cameron Holmes	Draft under discussion. Agreed	The land interest is the owner of areas of land comprising plot 39-006, over which the applicant is seeking temporary rights and plot 39-010, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, liability, reinstatement of land drainage, occupiers and crop loss and encumbering land. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Paul Cameron Holmes has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a

			compelling case in the public interest for the powers to be granted, which would outweigh private loss.
192875	Henry Tunnard Limited	Draft under discussion. Agreed	The land interest is the owner of areas of land comprising plots 39-012, 39-013, 40-006, 40-008, over which the applicant is seeking temporary rights and plots 39-004, 39-005, 39-007, 39-014, 40-007, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, liability, reinstatement of land drainage, occupiers and crop loss and encumbering land. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Henry Tunnard Limited has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
192875	Henry Tunnard Limited	None drafted Not Agreed	The land interest is the owner of areas of land comprising plot 39-010, over which the applicant is seeking temporary rights and plots 39-006, 39-008, for which the applicant is seeking to acquire permanent rights.

			The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, liability, reinstatement of land drainage, occupiers and crop loss and encumbering land. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Henry Tunnard Limited has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
193060 297429	Jonathan Gordon Fowler and J Fowler & Son	Draft under discussion. Agreed	The land interest is the owner of areas of land comprising plots 37-008, 37-010, 38-009, over which the applicant is seeking temporary rights and plots 37-009, 38-007, 38-008, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, liability, reinstatement of land drainage, occupiers and crop loss and encumbering land.

			The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Jonathan Gordon Fowler and J Fowler & Son have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
46318	J W Grant & Co	Signed by land interest. Agreed	The land interest is the owner of areas of land comprising plots 24-001, 24-004, 24-006, 24-007, 24-009, over which the applicant is seeking temporary rights and plots 24-002, 24-005, 25-004, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement.

			Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which J W Grant & Co has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
46318 192927 323148 323147 267995	J W Grant Co Andrew John Grant Jennifer Maureen Grant Elisabeth Grant The Executor of the Estate of the Late James Edward Grant	Agreed for permanent rights acquisition, under discussion for temporary rights. Agreed for permanent rights acquisition, under discussion for temporary rights.	The land interest is the owner of areas of land comprising plot 24-008, over which the applicant is seeking temporary rights and plot 25-005, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which J W Grant Co, Andrew John Grant, Jennifer Maureen Grant, Elisabeth Grant and the Executor of the Estate of the Late James Edward Grant have an interest are for a legitimate purpose, that they are necessary

			and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
193037 193157 306066	Janice Norma Pettitt Richard Nelson Pettitt F Pettitt & Sons	Agreed Agreed	The land interest is the owner of areas of land comprising plot 33-015, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, liability, reinstatement of land drainage, occupiers and crop loss and encumbering land. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Janice Norma Pettitt, Richard Nelson Pettitt, F Pettitt & Sons have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
193197	Wendy Bell	Agreed Agreed	The land interest is the owner of areas of land comprising plots 42-018, 42-019, for which the applicant is seeking to acquire permanent rights.

			The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the approach to agreeing terms for the easement and surveys and the detail in the terms. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Wendy Bell has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
209421	Samuel Kinning	Agreed Agreed	The land interest is the owner of areas of land comprising plot 09-018, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the approach to agreeing terms for the easement and surveys and the detail in the terms. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement.

			The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Samuel Kinning has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
210731	J F Rowson & Sons (Farmers) Limited	Agreed Agreed	The land interest is the owner of areas of land comprising plots 11-003, 14-015, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the approach to agreeing terms for the easement and surveys and the detail in the terms. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged.

			Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which J F Rowson & Sons (Farmers) Limited has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
215955 216058	Margaret Elizabeth Allison John Robert Mowbray	Agreed Agreed	The land interest is the owner of areas of land comprising plots 23-021, 23-022, 23-030, 23-033, 23-034, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the approach to agreeing terms for the easement and surveys and the detail in the terms. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought in respect of all plots in which Margaret Elizabeth Allison and John Robert Mowbray have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
215958	Jonathan Darcy Bell	Agreed	The land interest is the owner of areas of land comprising plot 27-010, for which the applicant is seeking to acquire permanent rights.

215959	Robert Anthony Bell	Agreed	The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the approach to agreeing terms for the easement and surveys and the detail in the terms. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Jonathan Darcy Bell and Robert Anthony Bell have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
216078 216079	Frederic James Rowson John Michael Rowson	Agreed Agreed	The land interest is the owner of areas of land comprising plots 15-004, 15-009, 15-013, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the approach to agreeing terms for the easement and surveys and the detail in the terms.

			The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Frederic James Rowson and John Michael Rowson have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
216080	John Walter Rowson	Agreed Agreed	The land interest is the owner of areas of land comprising plots 16-031, 17-007, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the approach to agreeing terms for the easement and surveys and the detail in the terms. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement

			and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which John Walter Rowson has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
216087 216088	Graham Frederick Shaw Marian Jeanette Shaw	Agreed Agreed	The land interest is the owner of areas of land comprising plots 17-016, 17-018, 17-021, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the approach to agreeing terms for the easement and surveys and the detail in the terms. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Graham Frederick Shaw and Marian Jeanette Shaw have an interest are for a legitimate purpose, that they are necessary and proportionate and

			that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
192887	Mark Caudwell Limited	Agreed Agreed	The land interest is the owner of areas of land comprising plot 09-004a, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the impact agricultural land, including Best and Most Versatile land, food production, land drainage, amenity, and cumulative impact. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Mark Caudwell Limited has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
215960	Doreen Ann Belton	Agreed Agreed	The land interest is the owner of areas of land comprising plots 28-016, 28-018, 28-019, for which the applicant is seeking to acquire permanent rights.

			The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Doreen Ann Belton has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
215961	Stephen Richard Belton	Agreed Agreed	The land interest is the owner of areas of land comprising plot 28-011, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation.

			The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Stephen Richard Belton has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
192915 193053	Alan Richard Daubney John Henry Daubney	Agreed Agreed	The land interest is the owner of areas of land comprising plot 25-013, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement

			and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Alan Richard Daubney and John Henry Daubney have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
193006	Gerald William Hicks	Agreed Agreed	The land interest is the owner of areas of land comprising plots 42-018, 42-020, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Gerald William Hicks has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling

			case in the public interest for the powers to be granted, which would outweigh private loss.
215988 216083 195879	Rosanna Skelham Elizabeth Amy Schweikhardt Victoria Jane White	Agreed Agreed	The land interest is the owner of areas of land comprising plot 25-014, for which the applicant is seeking to acquire permanent rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement and is pleased to note that a voluntary agreement to acquire permanent rights over the area identified has been exchanged. Notwithstanding this, the ExA is satisfied that the rights sought over land in respect of all plots in which Rosanna Skelham, Elizabeth Amy Schweikhardt and Victoria Jane White have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
192859 192988 192886	Castlegate Trustees Limited	Signed by land interest and applicant.	The land interest is the owner of areas of land comprising plots 23-027, for which the applicant is seeking to acquire permanent rights, and 23-028 over which the applicant is seeking temporary rights.

193018	Edith Alice Baker M. Baker (Produce) Limited Ian Michael Baker	Agreement not exchanged	The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Castlegate Trustees Limited, Edith Alice Baker, M. Baker (Produce) Limited and Ian Michael Baker have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
276547 278590	Carole Anne Codd (as trustee for the Stanley David Codd Will Trust) Christian Malcolm Dales (as trustee for the Stanley David Codd Will Trust)	Draft under discussion. Not completed	The land interest is the owner of areas of land comprising plots 26-003a, 26-005, 26-005a, for which the applicant is seeking to acquire permanent rights, and 26-004, over which the applicant is seeking temporary rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation.

			The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Carole Anne Codd (as trustee for the Stanley David Codd Will Trust) and Christian Malcolm Dales (as trustee for the Stanley David Codd Will Trust) have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
216137 216137	Ver Limited	Signed by land interest and applicant. Agreement not exchanged	The land interest is the owner of areas of land comprising plots 21-004, 21-005, for which the applicant is seeking to acquire permanent rights, and 21-001, 21-002, over which the applicant is seeking temporary rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement.

			Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Ver Limited has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
192930	Andrew Peter Dennis	Agreement issued to land interest's legal advisors Agreement issued to land interest's legal advisors	The land interest is the owner of areas of land comprising plots 40-010, for which the applicant is seeking to acquire permanent rights, and 40-009, 41-001 over which the applicant is seeking temporary rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to the adverse impact on organic land use and soils, during and post construction. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Andrew Peter Dennis has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
193182 193191	Steven William Taylor (trading	Signed by land interest.	The land interest is the owner of areas of land comprising plots 32-004, 32-004a, 32-005, for which the applicant is seeking to acquire permanent rights.

	as W T Taylor & Sons)	Agreement not exchanged	The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Steven William Taylor (trading as W T Taylor & Sons) has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
193139	Paul Cameron Holmes	Draft under discussion. Not completed	The land interest is the owner of areas of land comprising plots 39-006, 39-008, for which the applicant is seeking to acquire permanent rights, and 39-010, over which the applicant is seeking temporary rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, soil profile, soil management plan, running sand and running silt, dust contamination, liability, occupier's consent, preservation of terms agreed under the heads of terms and the provision of incorrect documentation.

			The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Paul Cameron Holmes has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
195556	Alan Harold Naylor	Signed by land interest. Not completed	The land interest is the owner of areas of land comprising plots 42-025, for which the applicant is seeking to acquire permanent rights, and 42-026, over which the applicant is seeking temporary rights. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, liability, reinstatement of land drainage, occupiers and crop loss, and encumbering land. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement.

			Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Alan Harold Naylor has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
183367	Ann Naylor	Draft under discussion. Not completed	The land interest is the owner of areas of land comprising plots 46-025, 47-006, 47-007, 47-012, 47-013, 47-014, 47-014a, 47-015, 47-018, 47-025, 47-027, for which the applicant is seeking to acquire permanent rights, 47-004, 47-028, over which the applicant is seeking temporary rights, and 47-006a, 47-006b, 47-011, 47-017, 47-026 for which the applicant is seeking to acquire the freehold ownership. The relevant representation submitted on behalf of the land interest identified areas of concern leading to an objection to the application for a Development Consent Order. General objections were raised in relation to insufficient cable burial depth, liability, reinstatement of land drainage, occupiers and crop loss. The LRT [REP6-081] sets out the position at the end of the examination and the steps taken by the applicant to obtain a negotiated agreement. The ExA is satisfied that the applicant has taken reasonable steps to acquire the land and rights included in the dDCO [AS-042] for this land interest by agreement. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought in respect of all plots in which Ann Naylor has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

APPENDIX G: THE EXAMINATION LIBRARY



Planning Inspectorate Arolygiaeth Gynllunio

Outer Dowsing Offshore Wind Project Examination Library

Updated – 11 June 2025

This Examination Library relates to the Outer Dowsing Offshore Wind application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document.

A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites (if issued) and will be used in the Examining Authority's Recommendation Report to the Secretary of State. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted to when the examination closes.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

Category	Reference
Application Documents Any amended versions accepted before or at the Preliminary Meeting will be saved as Additional Submissions. Amended versions requested for and/or received at a deadline will be saved with the deadline documents.	APP-xxx
Adequacy of Consultation responses	AoC-xxx
Relevant Representations	RR-xxx
Procedural Decisions and Notifications from the Examining Authority Includes Examining Authority's written questions, event notifications and procedural decisions on the examination.	PD-xxx
Additional Submissions Includes anything accepted at the discretion of the Examining Authority outside of a formal deadline.	AS-xxx
Events and Hearings Includes agendas, recordings, notes, actions, and Applicant's hearing notices relating to the Preliminary Meeting, examination hearings and Site Inspections, as relevant.	EVX-xxx
Representations – by Deadline	
Procedural Deadline	PD1-xxx
Deadline 1:	REP1-xxx
Deadline 2:	REP2-xxx
Deadline 3:	REP3-xxx
Deadline 4:	REP4-xxx
Deadline 4a	REP4a-xxx
Deadline 5:	REP5-xxx
Deadline 6:	REP6-xxx

[Other Documents](#)

OD-xxx

Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents

Application Documents		
APP-001	GT R4 Limited	1.1 Cover Letter
APP-002	GT R4 Limited	1.2 Guide to the Application
APP-003	GT R4 Limited	1.3 Draft Section 55 Checklist
APP-004	GT R4 Limited	1.4 Application Form
APP-005	GT R4 Limited	2.1 Onshore Works Plans superseded by AS1-004
APP-006	GT R4 Limited	2.2 Offshore Works Plans superseded by AS1-005
APP-007	GT R4 Limited	2.3 Onshore Location Plan superseded by AS1-006
APP-008	GT R4 Limited	2.4 Offshore Location Plan superseded by AS1-007
APP-009	GT R4 Limited	2.5 Land Plans superseded by AS1-008
APP-010	GT R4 Limited	2.6 Crown Land Plans Onshore superseded by AS1-009
APP-011	GT R4 Limited	2.7 Crown Land Plans Offshore superseded by AS1-010
APP-012	GT R4 Limited	2.8 Offshore Order Limits and Grid Coordinates Plan superseded by AS1-011
APP-013	GT R4 Limited	2.9 Access to Works Plan superseded by AS1-012

APP-014	GT R4 Limited	2.10 Public Rights of Way Plan superseded by AS1-103
APP-015	GT R4 Limited	2.11 Streets Plan superseded by AS1-014
APP-016	GT R4 Limited	2.12 Special Category Land Onshore superseded by AS1-015
APP-017	GT R4 Limited	2.13 Historic Environment Plan Onshore superseded by AS1-016
APP-018	GT R4 Limited	2.14 Historic Environment Plan Offshore superseded by AS1-017
APP-019	GT R4 Limited	2.15 Statutory and Non-Statutory Nature Conservation Sites Onshore superseded by AS1-018
APP-020	GT R4 Limited	2.16 Statutory and Non-Statutory Nature Conservation Sites Offshore superseded by AS1-019
APP-021	GT R4 Limited	2.17 Important Hedgerows and Tree Preservation Order superseded by AS1-020
APP-022	GT R4 Limited	2.18 Onshore Crossing Plan superseded by AS1-021
APP-023	GT R4 Limited	2.19 Offshore Crossing Plan superseded by AS1-022
APP-024	GT R4 Limited	2.20 Traffic Regulation Order Plan superseded by AS1-023
APP-025	GT R4 Limited	4.1 Book of Reference superseded by AS-006
APP-026	GT R4 Limited	4.2 Compulsory Acquisition Funding Statement
APP-027	GT R4 Limited	4.2.1 Appendix 2 Accounts of TotalEnergies

APP-028	GT R4 Limited	4.2.2 Appendix 3 Accounts of Macquarie Group
APP-029	GT R4 Limited	4.2.3 Appendix 4 Accounts of GULF
APP-030	GT R4 Limited	4.2.4 Appendix 5 Property Cost Estimate
APP-031	GT R4 Limited	4.3 Statement of Reasons superseded by AS1-032
APP-032	GT R4 Limited	5.1 Consultation Report superseded by AS1-034
APP-033	GT R4 Limited	5.1.1 Consultation Report Appendix 1 Consultation Compliance Statement
APP-034	GT R4 Limited	5.1.2 Appendix 2 Scoping Part 1 of 2
APP-035	GT R4 Limited	5.1.2 Appendix 2 Scoping Part 2 of 2
APP-036	GT R4 Limited	5.1.3 Consultation Report Appendix 3 Consultees consulted under section 42
APP-037	GT R4 Limited	5.1.4A Consultation Report Appendix 4A Section 47 Responses
APP-038	GT R4 Limited	5.1.4B Consultation Report Appendix 4B Section 42 Responses superseded by AS1-036
APP-039	GT R4 Limited	5.1.5 Consultation Report Appendix 5 Consultation on the SoCC Part 1 of 2
APP-040	GT R4 Limited	5.1.5 Consultation Report Appendix 5 Consultation on the SoCC Part 2 of 2
APP-041	GT R4 Limited	5.1.6 Consultation Report Appendix 6 Formal Notices Part 1 of 3

APP-042	GT R4 Limited	5.1.6 Consultation Report Appendix 6 Formal Notices Part 2 of 3
APP-043	GT R4 Limited	5.1.6 Consultation Report Appendix 6 Formal Notices Part 3 of 3
APP-044	GT R4 Limited	5.1.7 Consultation Report Appendix 7 Phase 1 Documentation
APP-045	GT R4 Limited	5.1.8 Consultation Report Appendix 8 Phase 1A Consultation Documentation
APP-046	GT R4 Limited	5.1.9 Consultation Report Appendix 9 Phase 2 Consultation Documentation
APP-047	GT R4 Limited	5.1.10 Consultation Report Appendix 10 Autumn Consultation Documentation
APP-048	GT R4 Limited	5.1.11 Consultation Report Appendix 11 Targeted Winter Consultation
APP-049	GT R4 Limited	5.1.12 Consultation Report Appendix 12 Community Liaison Group Documentation
APP-050	GT R4 Limited	5.1.13 Consultation Report Appendix 13: Other Community Engagement- Social Media Report
APP-051	GT R4 Limited	5.1.14 Consultation Report Appendix 14 Land Interests Consultation Documentations
APP-052	GT R4 Limited	5.1.15 Consultation Report Appendix 15 Evidence Plan Process Consultation
APP-053	GT R4 Limited	5.1.16 Consultation Report Appendix 16 Principal Areas of Disagreement Statement Summary
APP-054	GT R4 Limited	5.1.17 Consultation Report Appendix 17 Transboundary Responses
APP-055	GT R4 Limited	6.1 Environmental Statement: Non-Technical Summary

APP-056	GT R4 Limited	6.1.1 Chapter 1 Introduction
APP-057	GT R4 Limited	6.1.2 Environmental Statement: Chapter 2 Need, Policy and Legislative Context
APP-058	GT R4 Limited	6.1.3 Chapter 3 Project Description
APP-059	GT R4 Limited	6.1.4 Chapter 4 Site Selection and Consideration of Alternatives
APP-060	GT R4 Limited	6.1.5 Chapter 5 Environmental Impact Assessment Methodology
APP-061	GT R4 Limited	6.1.6 Chapter 6 Technical Consultation
APP-062	GT R4 Limited	6.1.7 Chapter 7 Marine Physical Processes
APP-063	GT R4 Limited	6.1.8 Chapter 8 Marine Water and Sediment Quality superseded by AS1-038
APP-064	GT R4 Limited	6.1.9 Chapter 9 Benthic and Intertidal Ecology
APP-065	GT R4 Limited	6.1.10 Chapter 10 Fish and Shellfish Ecology
APP-066	GT R4 Limited	6.1.11 Chapter 11 Marine Mammals
APP-067	GT R4 Limited	6.1.12 Chapter 12 Offshore and Intertidal Ornithology superseded by AS1-040
APP-068	GT R4 Limited	6.1.13 Chapter 13 Marine and Intertidal Archaeology
APP-069	GT R4 Limited	6.1.14 Chapter 14 Commercial Fisheries

APP-070	GT R4 Limited	6.1.15 Chapter 15 Shipping and Navigation
APP-071	GT R4 Limited	6.1.16 Chapter 16 Aviation Radar Military and Communication superseded by AS1-042
APP-072	GT R4 Limited	6.1.17 Chapter 17 Seascape Landscape and Visual Impact Assessment superseded by AS1-044
APP-073	GT R4 Limited	6.1.18 Chapter 18 Marine Infrastructure and Other Users
APP-074	GT R4 Limited	6.1.19 Chapter 19 Onshore Air Quality superseded by AS1-046
APP-075	GT R4 Limited	6.1.20 Chapter 20 Onshore Archaeology and Cultural Heritage superseded by AS1-048
APP-076	GT R4 Limited	6.1.21 Chapter 21 Onshore Ecology
APP-077	GT R4 Limited	6.1.22 Chapter 22 Onshore Ornithology
APP-078	GT R4 Limited	6.1.23 Chapter 23 Geology and Ground Conditions
APP-079	GT R4 Limited	6.1.24 Chapter 24 Hydrology Hydrogeology and Flood Risk
APP-080	GT R4 Limited	6.1.25 Chapter 25 Land Use superseded by AS1-050
APP-081	GT R4 Limited	6.1.26 Chapter 26 Onshore Noise and Vibration
APP-082	GT R4 Limited	6.1.27 Chapter 27 Traffic and Transport superseded by AS1-052
APP-083	GT R4 Limited	6.1.28 Chapter 28 Landscape and Visual Impact Assessment

APP-084	GT R4 Limited	6.1.29 Chapter 29 Socio-Economic Characteristics
APP-085	GT R4 Limited	6.1.30 Chapter 30 Human Health superseded by AS1-054
APP-086	GT R4 Limited	6.1.31 Chapter 31 Climate Change
APP-087	GT R4 Limited	6.2.1 Chapter 1 Introduction Figures
APP-088	GT R4 Limited	6.2.2 Environmental Statement: Chapter 2 Need, Policy and Legislative Context [No figures]
APP-089	GT R4 Limited	6.2.3 Chapter 3 Project Description Figures
APP-090	GT R4 Limited	6.2.4.1 Environmental Statement: Chapter 4 Site Selection and Consideration of Alternatives Volume 2 Figures
APP-091	GT R4 Limited	6.2.5 Chapter 5 EIA Methodology Figures
APP-092	GT R4 Limited	6.2.6 Chapter 6 Technical Consultation Figures [No Figures]
APP-093	GT R4 Limited	6.2.7 Chapter 7 Marine Physical Processes Figures Part 1 of 2
APP-094	GT R4 Limited	6.2.7 Chapter 7 Marine Physical Processes Figures Part 2 of 2
APP-095	GT R4 Limited	6.2.8 Chapter 8 Marine Water and Sediment Quality Figures
APP-096	GT R4 Limited	6.2.9 Chapter 9 Benthic and Intertidal Ecology Figures
APP-097	GT R4 Limited	6.2.10 Chapter 10 Fish and Shellfish Ecology Figures Part 1 of 2

APP-098	GT R4 Limited	6.2.10 Chapter 10 Fish and Shellfish Ecology Figures Part 2 of 2
APP-099	GT R4 Limited	6.2.11 Chapter 11 Marine Mammals Figures
APP-100	GT R4 Limited	6.2.12 Chapter 12 Offshore and Intertidal Ornithology Figures
APP-101	GT R4 Limited	6.2.13 Chapter 13 Marine and Intertidal Archaeology Figures
APP-102	GT R4 Limited	6.2.14 Chapter 14 Commercial Fisheries Figures
APP-103	GT R4 Limited	6.2.15 Chapter 15 Shipping and Navigation Figures
APP-104	GT R4 Limited	6.2.16 Environmental Statement: Chapter 16 Aviation, Radar, Military and Communication Figures
APP-105	GT R4 Limited	6.2.17 Chapter 17 Seascape Landscape and Visual Figures Part 1 of 3 superseded by AS1-056
APP-106	GT R4 Limited	6.2.17 Chapter 17 Seascape Landscape and Visual Figures Part 2 of 3
APP-107	GT R4 Limited	6.2.17 Chapter 17 Seascape Landscape and Visual Figures Part 3 of 3
APP-108	GT R4 Limited	6.2.18 Chapter 18 Marine Infrastructure and Other Users Figures
APP-109	GT R4 Limited	6.2.19 Chapter 19 Onshore Air Quality Figures
APP-110	GT R4 Limited	6.2.20 Chapter 20 Onshore Archaeology and Cultural Heritage [No Figures]
APP-111	GT R4 Limited	6.2.21 Environmental Statement: Chapter 21 Onshore Ecology Volume 2 Figures Part 1 of 2 superseded by AS1-057

APP-112	GT R4 Limited	6.2.21 Environmental Statement: Chapter 21 Onshore Ecology Volume 2 Figures Part 2 of 2
APP-113	GT R4 Limited	6.2.22 Chapter 22 Onshore Ornithology Figures
APP-114	GT R4 Limited	6.2.23 Chapter 23 Geology and Ground Conditions Figures superseded by AS1-058
APP-115	GT R4 Limited	6.2.24 Chapter 24 Hydrology Hydrogeology and Flood Risk Figures
APP-116	GT R4 Limited	6.2.25 Chapter 25 Land Use Figures superseded by AS1-060
APP-117	GT R4 Limited	6.2.26 Chapter 26 Noise and Vibration Figures
APP-118	GT R4 Limited	6.2.27 Chapter 27 Onshore Traffic and Transport Volume 2 Figures superseded by AS1-060
APP-119	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 1 Transport Assessment
APP-120	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 1 Transport Assessment Annex C Automatic Traffic Count Data
APP-121	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 1 Transport Assessment Annex E Construction Access Locations
APP-122	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 1 of 15
APP-123	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 2 of 15
APP-124	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 3 of 15
APP-125	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 4 of 15

APP-126	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 5 of 15
APP-127	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 6 of 15
APP-128	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 7 of 15
APP-129	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 8 of 15
APP-130	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 9 of 15
APP-131	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 10 of 15
APP-132	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 11 of 15
APP-133	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 12 of 15
APP-134	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 13 of 15
APP-135	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 14 of 15
APP-136	GT R4 Limited	6.2.28 Chapter 28 Landscape and Visual Impact Assessment Part 15 of 15
APP-137	GT R4 Limited	6.2.29 Chapter 29 Socio-Economic Characteristics Figures
APP-138	GT R4 Limited	6.2.30 Chapter 30 Human Health Figures
APP-139	GT R4 Limited	6.2.31 Chapter 31 Climate Change Figures [No Figures]

APP-140	GT R4 Limited	6.3.1 Chapter 1 Introduction [No Appendices]
APP-141	GT R4 Limited	6.3.2 Chapter 2 Need, Policy and Legislative Context Appendices - No Appendices
APP-142	GT R4 Limited	6.3.3.1 Chapter 3 Appendix 1 Cable Burial Risk Assessment CONFIDENTIAL
APP-143	GT R4 Limited	6.3.3.2 Chapter 3 Appendix 2 Onshore Crossing Schedule
APP-144	GT R4 Limited	6.3.3.3 Chapter 3 Appendix 3 Offshore Crossing Schedule
APP-145	GT R4 Limited	6.3.4.1 Chapter 4 Appendix 1 Landfall Assessment Offshore ECC Route Optioneering
APP-146	GT R4 Limited	6.3.5.1 Chapter 5 Appendix 1 Statement of Competence
APP-147	GT R4 Limited	6.3.5.2 Appendix 5.2 Offshore Cumulative Effects Assessment Methodology
APP-148	GT R4 Limited	6.3.5.3 Appendix 3 Onshore Cumulative Effects Assessment Approach
APP-149	GT R4 Limited	6.3.6.1 Chapter 6 Appendix 1 Evidence Plan Process
APP-150	GT R4 Limited	6.3.7.1 Chapter 7 Appendix 1 Physical Processes Technical Baseline
APP-151	GT R4 Limited	6.3.7.2 Chapter 7 Appendix 2 Physical Processes Numerical Modelling Report
APP-152	GT R4 Limited	6.3.7.3 Chapter 7 Appendix 3 Seabed Mobility Report [CONFIDENTIAL]
APP-153	GT R4 Limited	6.3.8.1 Chapter 8 Appendix 1 Water Framework Directive

APP-154	GT R4 Limited	6.3.9.1 Chapter 9 Appendix 1 Benthic Ecology Technical Report (Array)
APP-155	GT R4 Limited	6.3.9.2 Chapter 9 Appendix 2 Benthic Ecology Technical Report (ECC)
APP-156	GT R4 Limited	6.3.9.3 Chapter 9 Appendix 3 Intertidal Technical Report
APP-157	GT R4 Limited	6.3.9.4 Chapter 9 Appendix 4 Marine Conservation Zone Assessment
APP-158	GT R4 Limited	6.3.9.5 Chapter 9 Appendix 5 Envision Data Analysis
APP-159	GT R4 Limited	6.3.10 Chapter 10 Appendix 1 Fish and Shellfish Ecology Technical Baseline
APP-160	GT R4 Limited	6.3.11.1 Chapter 11 Appendix 1 Marine Mammals Technical Baseline
APP-161	GT R4 Limited	6.3.11.2 Chapter 11 Appendix 2 Underwater Noise Assessment
APP-162	GT R4 Limited	6.3.12.1 Appendix 12.1 Offshore and Intertidal Ornithology Baseline Characterisation Report superseded by AS1-064
APP-163	GT R4 Limited	6.3.12.2 Appendix 12.2 Offshore Ornithology Collision Risk Modelling
APP-164	GT R4 Limited	6.3.12.3 Appendix 12.3 Offshore Ornithology Displacement Assessment
APP-165	GT R4 Limited	6.3.12.4 Appendix 12.4 Offshore Ornithology Population Viability Assessment
APP-166	GT R4 Limited	6.3.12.5 Appendix 12.5 Migratory Collision Risk Modelling Annex
APP-167	GT R4 Limited	6.3.13.1 Appendix 13.1 Marine and Intertidal Archaeology Technical Report

APP-168	GT R4 Limited	6.3.13.2 Marine and Intertidal Archaeology Geoarchaeological assessment Phase One (ECC)
APP-169	GT R4 Limited	6.3.12.3 Appendix 13.3: Marine and Intertidal Archaeology Geoarchaeological Assessment Phase One (Array)
APP-170	GT R4 Limited	6.3.14.1 Appendix 14.1 Commercial Fisheries Baseline Technical Report
APP-171	GT R4 Limited	6.3.15.1 Appendix 15.1 Navigational Risk Assessment
APP-172	GT R4 Limited	6.3.15.2 Appendix 15.2 Oil and Gas Platform Allision and Marine Access Study
APP-173	GT R4 Limited	6.3.16.1 Appendix 16.1 Aviation Technical Report
APP-174	GT R4 Limited	6.3.17.1 Appendix 17.1 Seascape Landscape and Visual Impact Assessment Methodology
APP-175	GT R4 Limited	6.3.18.1 Appendix 18.1 Helicopter Access Report
APP-176	GT R4 Limited	6.3.19.1 Appendix 19.1 Construction Phase Dust Assessment Methodology superseded by AS1-066
APP-177	GT R4 Limited	6.3.19.2 Appendix 19.2 Non-Road Mobile Machinery Emissions Assessment
APP-178	GT R4 Limited	6.3.19.3 Appendix 19.3 Offshore Activities Assessment
APP-179	GT R4 Limited	6.3.19.4 Appendix 19.4 Road Traffic Dispersion Modelling
APP-180	GT R4 Limited	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 1
APP-181	GT R4 Limited	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 2

APP-182	GT R4 Limited	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 3 Annexes 1-16
APP-183	GT R4 Limited	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 4 Annex 17
APP-184	GT R4 Limited	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 5 Annex 18
APP-185	GT R4 Limited	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 6 Annex 19
APP-186	GT R4 Limited	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 7 Annex 19 Figures suite 1
APP-187	GT R4 Limited	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 7 Annex 19 Figures suite 2
APP-188	GT R4 Limited	6.3.20.2 Appendix 20.2 Onshore Archaeology and Cultural Heritage - Heritage Statement
APP-189	GT R4 Limited	6.3.21.1 Appendix 21.1 Onshore Ecology Desk Based Assessment
APP-190	GT R4 Limited	6.3.21.2 Appendix 21.2 UK Habitat Survey Report
APP-191	GT R4 Limited	6.3.21.3 Appendix 21.3 Important Hedgerows Survey
APP-192	GT R4 Limited	6.3.21.4 Appendix 21.4 Preliminary Roost Surveys for Bats Part 1 Report and Figures
APP-193	GT R4 Limited	6.3.21.4 Appendix 21.4 Preliminary Roost Surveys for Bats Part 2 figures
APP-194	GT R4 Limited	6.3.21.5 Appendix 21.5 Badger Desk Study and Field Survey CONFIDENTIAL
APP-195	GT R4 Limited	6.3.21.6 Appendix 21.6 Riparian Mammal Surveys

APP-196	GT R4 Limited	6.3.21.7 Appendix 21.7 Great Crested Newt Surveys
APP-197	GT R4 Limited	6.3.21.8 Appendix 21.8 Reptile Habitat Suitability Study
APP-198	GT R4 Limited	6.3.21.9 Appendix 21.9 Invertebrate Study
APP-199	GT R4 Limited	6.3.21.10 Appendix 22.10 Fish Habitat Survey
APP-200	GT R4 Limited	6.3.22.1 Appendix 22.1 Ornithology Desk Study
APP-201	GT R4 Limited	6.3.22.2 Appendix 22.5 Ornithology Desk Study Annex CONFIDENTIAL
APP-202	GT R4 Limited	6.3.22.3 Appendix 22.3 Winter Bird Survey 2022 - 2023 Part 1
APP-306	GT R4 Limited	6.3.22.3 Appendix 22.3 Winter Bird Survey 2022 - 2023 Part 2
APP-203	GT R4 Limited	6.3.22.3 Appendix 22.3 Winter Bird Survey 2022 - 2023 Part 3
APP-204	GT R4 Limited	6.3.22.3 Appendix 22.3 Winter Bird Survey 2022 - 2023 Part 4
APP-205	GT R4 Limited	6.3.22.4 Appendix 22.4 Breeding Bird Survey 2023
APP-206	GT R4 Limited	6.3.22.5 Appendix 22.5 5 Breeding Bird Survey 2023 CONFIDENTIAL
APP-207	GT R4 Limited	6.3.22.6 Appendix 22.6 Bird Species List
APP-208	GT R4 Limited	6.3.22.7 Appendix 22.7 Winter Bird Survey 2023-24 Preliminary Summary

APP-209	GT R4 Limited	6.3.23.1 Appendix 23.1 Preliminary Land Quality Risk Assessment superseded by AS1-059
APP-210	GT R4 Limited	6.3.24.1 Appendix 24.1 Groundwater Risk Assessment
APP-211	GT R4 Limited	6.3.24.2 Appendix 24.2 Flood Risk Assessment: Onshore ECC and 400kV Cable Corridor superseded by AS1-068
APP-212	GT R4 Limited	6.3.24.3 Appendix 24.3 Flood Risk Assessment: Onshore Substation
APP-213	GT R4 Limited	6.3.25 Chapter 25 Land Use Appendices [No Appendices]
APP-214	GT R4 Limited	6.3.26.1 Appendix 26.1 Sound Level Meter Calibration Certificates
APP-215	GT R4 Limited	6.3.26.2 Appendix 26.2 Full Baseline Survey Results
APP-216	GT R4 Limited	6.3.26.3 Appendix 26.3 Construction Plant List
APP-217	GT R4 Limited	6.3.26.4 Appendix 26.4 Noise Model Outputs
APP-218	GT R4 Limited	6.3.27.1 Appendix 27.1: Transport Assessment Annex A Special Order AIL Swept Path Analysis
APP-219	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex B DfT Traffic Data
APP-220	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex D Personal Injury Accident Data
APP-221	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex F Construction Access General Arrangement Drawings
APP-222	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex G Core and Local Construction Vehicle Access Routes

APP-223	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex H Haul Road Crossings
APP-224	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex I ES Public Rights of Way
APP-225	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex J Trip Generation Calculations
APP-226	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex K Daylight Hours Availability
APP-227	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex L Workforce Gravity Model
APP-228	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex M Swept Path Analysis Checks
APP-229	GT R4 Limited	6.3.27.1 Appendix 27.1 Transport Assessment Annex N Passing Place Proposals
APP-230	GT R4 Limited	6.3.28 Chapter 28 Landscape and Visual Assessment Appendices [No Appendices]
APP-231	GT R4 Limited	6.3.29 Chapter 29 Socio-Economic Characteristics Appendices [No Appendices]
APP-232	GT R4 Limited	6.3.30.1 Appendix 30.1 Population Baseline
APP-233	GT R4 Limited	6.3.30.2 Appendix 30.2 Human Health Literature Review
APP-234	GT R4 Limited	6.3.31 Chapter 31 Climate Change Appendices [No Appendices]
APP-235	GT R4 Limited	7.1 Report to Inform Appropriate Assessment superseded by AS1-095
APP-236	GT R4 Limited	7.1 Report to Inform Appropriate Assessment [CONFIDENTIAL]

APP-237	GT R4 Limited	7.1.1 Offshore and Intertidal Ornithology Apportioning superseded by AS1-099
APP-238	GT R4 Limited	7.1.2 Annex 2: Ornithology Population Viability Analysis
APP-239	GT R4 Limited	7.2 Habitats Regulations Assessment Screening Report
APP-240	GT R4 Limited	7.3 Report to Inform Appropriate Assessment Appendix 1: Screening Matrices superseded by AS1-099
APP-241	GT R4 Limited	7.4 Report to Inform Appropriate Assessment Integrity Matrices
APP-242	GT R4 Limited	7.5 Derogation Case
APP-243	GT R4 Limited	7.6 Without Prejudice Benthic Compensation Strategy
APP-244	GT R4 Limited	7.6.1 Without Prejudice Sandbank Compensation Plan
APP-245	GT R4 Limited	7.6.1.1 Outline Sandbank Compensation Implementation and Monitoring Plan
APP-246	GT R4 Limited	7.6.2 Without Prejudice Biogenic Reef Compensation Plan
APP-247	GT R4 Limited	7.6.2.1 Biogenic Reef Compensation Implementation and Monitoring Plan
APP-248	GT R4 Limited	7.6.3 Without Prejudice Benthic Compensation Evidence Base and RoadMap
APP-249	GT R4 Limited	7.7 Ornithology Compensation Strategy
APP-250	GT R4 Limited	7.7.1 Kittiwake Compensation Plan

APP-251	GT R4 Limited	7.7.1.1 Outline Kittiwake Compensation Implementation and Monitoring Plan
APP-252	GT R4 Limited	7.7.2 Without Prejudice Guillemot Compensation Strategy
APP-253	GT R4 Limited	7.7.2.1 Outline Guillemot Compensation Implementation and Monitoring Plan
APP-254	GT R4 Limited	7.7.3.1 Outline Razorbill Compensation Implementation and Monitoring Plan
APP-255	GT R4 Limited	7.7.3 Without Prejudice Razorbill Compensation Plan
APP-256	GT R4 Limited	7.7.4 Offshore Artificial Nesting Structures Evidence Base and Roadmap
APP-257	GT R4 Limited	7.7.5 Without Prejudice Predator Control Evidence Base and RoadMap
APP-258	GT R4 Limited	7.5.1 Plemont SeaBird Reserve Feasibility Study Report
APP-259	GT R4 Limited	7.7.6 Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill
APP-260	GT R4 Limited	7.8 The Crown Estate Kittiwake Strategic Compensation Plan
APP-261	GT R4 Limited	7.8.1 Appendix A The Crown Estate Kittiwake Strategic Implementation Monitoring Plan
APP-262	GT R4 Limited	7.8.2 Appendix B Letter of Acceptance from Secretary of State
APP-263	GT R4 Limited	7.8.3 Appendix D NIRAS - Round 4 Strategic Compensation – Artificial Nesting Structure Site Selection
APP-264	GT R4 Limited	7.9 Compensation Funding Statement

APP-265	GT R4 Limited	7.9.1 Compensation Funding Statement Appendix 2: Accounts of TotalEnergies
APP-266	GT R4 Limited	7.9.2 Compensation Funding Statement Appendix 3: Accounts of Macquarie Group
APP-267	GT R4 Limited	7.9.3 Compensation Funding Statement Appendix 4: Accounts of GULF
APP-268	GT R4 Limited	8.1 Outline Code of Construction Practice
APP-269	GT R4 Limited	8.1.1 Outline Noise and Vibration Management Plan
APP-270	GT R4 Limited	8.1.2 Outline Air Quality Management Plan
APP-271	GT R4 Limited	8.1.3 Outline Soil Management Plan
APP-272	GT R4 Limited	8.1.4 Outline Pollution Prevention and Emergency Incident Response Plan
APP-273	GT R4 Limited	8.1.5 Outline Surface Water Drainage Strategy
APP-274	GT R4 Limited	8.1.6 Outline Site Waste Management Plan
APP-275	GT R4 Limited	8.2 Outline Offshore Operations and Maintenance Plan
APP-276	GT R4 Limited	8.03 Offshore In-Principle Monitoring Plan
APP-277	GT R4 Limited	8.4 Outline Project Environmental Management Plan
APP-278	GT R4 Limited	8.5 Outline Cable Specification and Installation Plan

APP-279	GT R4 Limited	8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities
APP-280	GT R4 Limited	8.6.2 Volume 8, Report 8b: Outline Marine Mammal Mitigation Protocol for Unexploded Ordnance Clearance
APP-281	GT R4 Limited	8.7 In Principle Southern North Sea Special Area of Conservation Site Integrity Plan
APP-282	GT R4 Limited	8.08 Outline Marine Archaeological Written Scheme of Investigation (WSI)
APP-283	GT R4 Limited	8.9 Onshore Outline Written Scheme of Investigation (WSI) for Archaeological Works
APP-284	GT R4 Limited	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) superseded by AS1-103
APP-285	GT R4 Limited	8.11 Outline Operational Artificial Light Emissions Management Plan
APP-286	GT R4 Limited	8.12 Outline Operational Drainage Management Plan
APP-287	GT R4 Limited	8.13 Schedule of Mitigation
APP-288	GT R4 Limited	8.14 Outline Fisheries Liaison and Co-existence Plan
APP-289	GT R4 Limited	8.15 Outline Construction Traffic Management Plan
APP-290	GT R4 Limited	8.16 Outline Travel Plan
APP-291	GT R4 Limited	8.17 Outline Public Access Management Plan
APP-292	GT R4 Limited	8.18 Design Approach Document

APP-293	GT R4 Limited	8.19 Design Principles Statement
APP-294	GT R4 Limited	8.20 Outline Vessel Management Plan superseded by AS1-105
APP-295	GT R4 Limited	8.21 Outline Scour and Cable Protection Management Plan
APP-296	GT R4 Limited	8.22 Outline Biogenic Reef Mitigation Plan
APP-297	GT R4 Limited	9.1 Planning Statement
APP-298	GT R4 Limited	9.1.1 Policy Compliance Document
APP-299	GT R4 Limited	9.2 Cable Statement
APP-300	GT R4 Limited	9.3 Safety Zone Statement
APP-301	GT R4 Limited	9.4 Statutory Nuisance Statement
APP-302	GT R4 Limited	9.5 Biodiversity Net Gain Report Principles and Approach
APP-303	GT R4 Limited	3.1 Draft Development Consent Order superseded by AS1-024
APP-304	GT R4 Limited	3.2 Explanatory Memorandum
APP-305	GT R4 Limited	3.3 Other Consents and Licences superseded by AS1-027

Adequacy of Consultation Responses

AoC-001	Boston Borough Council	Adequacy of Consultation Representation

Adequacy of Consultation Responses		
AoC-002	Boston-South Holland-East Lindsey	Adequacy of Consultation Representation-Cover Letter
AoC-003	Cambridgeshire County Council	Adequacy of Consultation Representation
AoC-004	East Lindsey District Council	Adequacy of Consultation Representation
AoC-005	Fenland District Council	Adequacy of Consultation Representation
AoC-006	Lincolnshire County Council	Adequacy of Consultation Representation
AoC-007	North Kesteven District Council	Adequacy of Consultation Representation
AoC-008	Nottinghamshire County Council	Adequacy of Consultation Representation
AoC-009	North East Lincolnshire Council	Adequacy of Consultation Representation
AoC-010	North Lincolnshire Council	Adequacy of Consultation Representation
AoC-011	Rutland County Council	Adequacy of Consultation Representation
AoC-012	South Holland District Council	Adequacy of Consultation Representation
AoC-013	South Kesteven District Council	Adequacy of Consultation Representation
AoC-014	West Lindsey District Council	Adequacy of Consultation Representation

Relevant Representations	
RR-001	Boston Borough Council
RR-002	East Lindsey District Council
RR-003	Kings Lynn and West Norfolk Borough Council
RR-004	Lincolnshire County Council
RR-005	South Holland District Council
RR-006	Fosdyke Parish Council
RR-007	Well Parish Meeting
RR-008	Anglian Water Services
RR-009	Birds On The Edge
RR-010	Black Sluice Internal Drainage Board
RR-011	Breesea Limited, Soundmark Wind Limited, Sonningmay Limited, Optimus Wind Limited
RR-012	Brown & Co
RR-013	Cadent Gas
RR-014	The Crown Estate
RR-015	Corporation of Trinity House of Deptford Strond
RR-016	Defence Infrastructure Organisation

RR-017	Diamond Transmission Partners RB Limited
RR-018	Environment Agency
RR-019	Espoo, Denmark - The danish Environmental Protection Agency
RR-020	Fisher German LLP on behalf of National Gas Transmission
RR-021	Forestry Commission
RR-022	Fosdyke playing field
RR-023	Fred Grant Co
RR-024	Brown & Co Property and Business Consultants LLP on behalf of George Hay & Sons Limited
RR-025	Gunfleet Sands Limited and Gunfleet Sands II Limited
RR-026	Brown & Co Property and Business Consultants LLP on behalf of G-VEG Limited
RR-027	Historic England
RR-028	Hornsea 1 Limited
RR-029	Hub Rural Ltd on behalf of The Holmes 1987 Pension Fund
RR-030	Hub Rural Ltd on behalf of Henry Tunnard Ltd
RR-031	IOG North Sea Limited
RR-032	Hub Rural Ltd on behalf of Jonathan Gordon Fowler (and J Fowler & Sons)
RR-033	Brown & Co Property and Business Consultants LLP on behalf of J W Grant & Co
RR-034	Brown & Co Property and Business Consultants LLP on behalf of J W Grant & Co Pension Fund
RR-035	The Lincolnshire Association of Agricultural Valuers Land Interest Group
RR-036	Lincolnshire Wildlife Trust
RR-037	Lincs Wind Farm Limited
RR-038	Lindsey Marsh Drainage Board
RR-039	Ossian Offshore Wind Farm Ltd
RR-040	Hub Rural Ltd on behalf of Janice Norma Pettitt, Richard Nelson Pettitt, F Pettitt & Son
RR-041	Maritime and Coastguard Agency
RR-042	Marine Management Organisation
RR-043	Brown & Co Property and Business Consultants LLP on behalf of M Baker (Produce) Ltd Pension Scheme
RR-044	NATS En Route LTD
RR-045	Natural England
RR-046	National Highways
RR-047	National Trust
RR-048	DLA Piper on behalf of National Grid Electricity Transmission plc
RR-049	Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited
RR-050	Orsted Gunfleet Sands Demo Limited
RR-051	Orsted Hornsea Project Four Limited
RR-052	Orsted Hornsea Project Three (UK) Limited
RR-053	Perenco UK Limited
RR-054	Race Bank Wind Farm Limited
RR-055	Robert Bell & Company

RR-056	Royal Society for the Protection of Birds
RR-057	RWE Renewables UK Dogger Bank South (West) Limited
RR-058	Savills (UK) Limited
RR-059	Equinor New Energy Limited (Equinor New Energy Limited) on behalf of Scira Extension Limited and Dudgeon Extension Limited
RR-060	Shell U.K. Limited
RR-061	South Holland Internal Drainage Board
RR-062	Brown & Co Property and Business Consultants LLP on behalf of Stanley David Codd Will Trust
RR-063	Brown & Co Property and Business Consultants LLP on behalf of Staples Brothers Limited
RR-064	Brown & Co Property and Business Consultants LLP on behalf of Staples (Vegetables) Ltd
RR-065	St John's College Cambridge
RR-066	TC Lincs OFTO Ltd
RR-067	Mills & Reeve LLP (Mills & Reeve LLP) on behalf of T.H. Clements & Sons Limited
RR-068	UK Chamber of Shipping
RR-069	Brown & Co Property and Business Consultants LLP (Brown & Co Property and Business Consultants LLP) on behalf of VER Limited
RR-070	Water Management Alliance
RR-071	Welland & Deepings Internal Drainage Board
RR-072	Westermost Rough Limited
RR-073	Will Barker & Co (Will Barker & Co) on behalf of Will Barker & Co
RR-074	Witham Fourth District Internal Drainage Board
RR-075	Savills (UK) Limited on behalf of Woodlands Farm (Kirton) Limited and Andrew Peter Dennis
RR-076	Hub Rural Limited on behalf of W T Taylor & Sons
RR-077	William Barker
RR-078	Brown & Co Property and Business Consultants LLP (Brown & Co Property and Business Consultants LLP) on behalf of Doreen Belton
RR-079	Brown & Co Property and Business Consultants LLP on behalf of Steve Belton
RR-080	Barry Cooper
RR-081	Brown & Co Property and Business Consultants LLP on behalf of Messrs A, J & R Daubney
RR-082	Hub Rural Ltd on behalf of Gerald Hicks
RR-083	Hub Rural Ltd (Hub Rural Ltd) on behalf of Paul Cameron Holmes
RR-084	Anthony Kindred
RR-085	Lisa Kindred
RR-086	Andrew Malkin
RR-087	Fraser Dawbarns LLP on behalf of Alan Harold Naylor
RR-088	Fraser Dawbarns LLP on behalf of Ann Naylor
RR-089	Fraser Dawbarns LLP on behalf of Brian Douglas Naylor
RR-090	Fraser Dawbarns LLP (Fraser Dawbarns LLP) on behalf of Simon Brian Naylor
RR-091	Nicola Ann Pearson
RR-092	Mr Andrew Roberts
RR-093	Nicholas Alexander Sermon

RR-094	Brown & Co Property and Business Consultants LLP on behalf of Roseanna Skelham, Elizabeth Schweikhardt & Victoria Jane White
RR-095	Hub Rural Ltd on behalf of Mark Skipworth and Betty Skipworth

Procedural Decisions and Notifications from the Examining Authority

PD-001	Notification of Decision to Accept Application
PD-002	Notification of the appointment of Examining Authority
PD-003	Acceptance checklist (s55)
PD-004	Section 51 advice to the Applicant
PD-005	Rule 17 - The Examining Authority's request for further information
PD-006	Rule 9 and Rule 17 Letter – Notification of Procedural Decision and Request for Information
PD-007	Section 89(3) – Procedural Decision
PD-008	Examining Authority's response to an Additional Submission from the Applicant [AS-021] notifying of the intention to submit a change request
PD-009	Rule 6 letter - notification of the preliminary meeting and matters to be discussed
PD-010	Procedural Decision following submissions received from the Applicant at the Procedural Deadline on 19 September 2024
PD-011	Rule 8 letter - notification of timetable for the examination
PD-012	Rule 9 & 13 letter - Notification of the preliminary meeting and matters to be discussed
PD-013	Examining Authority's Written Questions (ExQ1)
PD-014	Rule 8 letter (3) - notification of timetable for the examination
PD-015	Notification of Procedural Decision - Rule 9
PD-016	Rule 9 - ExA's Response to the Applicant's Change Notification of 27 November 2024
PD-017	*Not in use*
PD-018	S102a Request Response - Jenny Pennington
PD-019	Examining Authority's Response to Applicant's Change Notification of 13 December 2024
PD-020	The Examining Authority's further written questions and requests for information (ExQ2)
PD-021	Rule 13 and 16 Letter - Notification of Hearings and Accompanied Site Inspection
PD-021a	Rule 8(3) and 9 Letter
PD-022	Report on the Implications for European Sites (RIES)
PD-023	Rule 13 Letter – Notification of Hearings
PD-024	Rule 9 - 25th February 2025
PD-025	Rule 13 Letter - Notification of Hearings - March 2025
PD-026	ExAs recommended changes to the dDCO
PD-027	Rule 17 Letter - Request for further information – 5 March 2025
PD-028	Rule 17 Letter - Request for further information – 21 March 2025
PD-029	Notification of completion of the Examining Authority's Examination

Additional Submissions accepted at discretion of Examining Authority

30 May 2024

AS-001	GT R4 Limited	Ornithology Population Viability Analysis Parameter Log
AS-002	GT R4 Limited	Offshore and Intertidal Ornithology Population Viability Analysis Parameter Log
AS-003	GT R4 Limited	6.3.7.1 Physical Processes Technical Baseline Rev: 2.0
AS-004	GT R4 Limited	6.3.9.2 Chapter 9 Appendix 9.2 Benthic and Intertidal Ecology
AS-005	GT R4 Limited	6.3.12.5 Appendix 12.5: Migratory Bird Collision Risk Modelling Volume 3
AS-006	GT R4 Limited	4.1 Book of Reference - Revision 2 Clean superseded by AS1-029
AS-007	GT R4 Limited	4.1 Book of Reference- Revision 2 Tracked
AS-008	GT R4 Limited	4.1.1 Schedule of Changes to the Book of Reference
Response to Rule 17 letter - 3 July 2024		
AS-009	GT R4 Limited	Cover Letter
AS-010	GT R4 Limited	1.2 Guide to the Application
AS-011	GT R4 Limited	4.3.3 Biodiversity Net Gain Assessment Report Figure 3 Habitat Retention and Loss Status
AS-012	GT R4 Limited	9.1.1. Policy Compliance Document
AS-013	GT R4 Limited	14.2 The Applicant's Response to the Rule 17 Letter dated 3 July 2024
AS-014	GT R4 Limited	14.3 Biodiversity Net Gain Assessment Report
AS-015	GT R4 Limited	14.3.1 Biodiversity Net Gain Assessment Report Figure 1 BNG Assessment Boundary
AS-016	GT R4 Limited	14.3.2 Biodiversity Net Gain Assessment Report Figure 2 Pre-development (Baseline) Habitats
AS-017	GT R4 Limited	14.3.4 Biodiversity Net Gain Assessment Report Figure 4 Post Development Habitats
AS-018	GT R4 Limited	14.3.5 Biodiversity Net Gain Assessment Report Figure 5 OnSS Indicative Layout and Mitigation (BNG)
AS-019	GT R4 Limited	14.3.6 Biodiversity Net Gain Assessment Report Figure 6 Baseline Habitat Units
AS-020	GT R4 Limited	14.3.7 Biodiversity Net Gain Assessment Report Figure 7 Post Development Habitat Units

Additional Submissions accepted at the discretion of the Examining Authority		
AS-021	GT R4 Limited	Applicant's Notification of Intention to Submit a Change Request dated 29 August 2024
AS-022	North Lincolnshire County Council	Additional Submission accepted at the discretion of the Examining Authority
AS-023	Equans on behalf of North East Lincolnshire Council	Additional Submission accepted at the discretion of the Examining Authority
AS-024	Jon Harman	Additional Submission accepted at the discretion of the Examining Authority
AS-025	GT R4 Limited	The Applicant's Response to the ExA's Procedural Decision 30 September 2024 and Change Notification
AS-026	RSPB	Additional Submission accepted at the discretion of the Examining Authority
AS-027	Fenland District Council	Additional Submission accepted at the discretion of the Examining Authority
AS-028	GT R4 Limited	Additional Submission accepted at the discretion of the Examining Authority
AS-029	Environment Agency	Additional Submission accepted at the discretion of the Examining Authority
AS-030	Trinity House	Additional Submission accepted at the discretion of the Examining Authority
AS-031	Natural England	Additional Submission accepted at the discretion of the Examining Authority
AS-032	GT R4 Limited	Additional Submission accepted at the discretion of the Examining Authority- The Applicant's Change Notification dated 20 February 2025
AS-032a	Lincolnshire Wildlife Trust	Additional Submission accepted at the discretion of the Examining Authority
AS-033	Natural England	Additional Submission accepted at the discretion of the Examining Authority- response to the ExA's Rule 8(s) and 9 letter
AS-034	Walter Smith (Gosberton) Limited	Additional Submission accepted at the discretion of the Examining Authority
AS-035	Eastern Inshore Fisheries and Conservation Authority (IFCA)	Additional Submission accepted at the discretion of the Examining Authority
AS-036	Equinor	Additional Submission accepted at the discretion of the Examining Authority - Comments on Deadline 5 Submissions
AS-037	Orsted IPs	Additional Submission accepted at the discretion of the Examining Authority
AS-038	The Crown Estate	Additional Submission accepted at the discretion of the Examining Authority
AS-039	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Additional Submission accepted at the discretion of the Examining Authority - 25.1 The Applicant's Close of Examination Covering Letter

EN010130 – Outer Dowsing Offshore Wind (Generating Station) - Examination Library

AS-040	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Additional Submission accepted at the discretion of the Examining Authority - 25.2 S106 Agreement with Lincolnshire County Council
AS-041	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Additional Submission accepted at the discretion of the Examining Authority - 1.2 Guide to the Application V12
AS-042	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Additional Submission accepted at the discretion of the Examining Authority - 3.1 Draft Development Consent Order V11 (Clean)
AS-043	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Additional Submission accepted at the discretion of the Examining Authority - 3.1 Draft Development Consent Order V11 (Tracked)
AS-044	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Additional Submission accepted at the discretion of the Examining Authority - 3.1.1 Schedule of Changes to the Draft DCO V10
AS-045	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Additional Submission accepted at the discretion of the Examining Authority - 3.2 Explanatory Memorandum V9 (Clean)
AS-046	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Additional Submission accepted at the discretion of the Examining Authority - 3.2 Explanatory Memorandum V9 (Tracked)

Response to s51 advice

AS1-001	GT R4 Limited	Covering Letter
AS1-002	GT R4 Limited	1.2 Guide to the Application
AS1-003	GT R4 Limited	2.0 Schedule of Changes for Plans
AS1-004	GT R4 Limited	2.1 Onshore Works Plans
AS1-005	GT R4 Limited	2.2 Offshore Works Plans
AS1-006	GT R4 Limited	2.3 Onshore Location Plan
AS1-007	GT R4 Limited	2.4 Offshore Location Plan
AS1-008	GT R4 Limited	2.5 Land Plans
AS1-009	GT R4 Limited	2.6 Crown Land Plans Onshore
AS1-010	GT R4 Limited	2.7 Crown Land Plans Offshore
AS1-011	GT R4 Limited	2.8 Offshore Order Limits and Grid Coordinates Plan
AS1-012	GT R4 Limited	2.9 Access to Works Plan
AS1-013	GT R4 Limited	2.10 Public Rights of Way
AS1-014	GT R4 Limited	2.11 Streets Plan
AS1-015	GT R4 Limited	2.12 Special Category Land Onshore
AS1-016	GT R4 Limited	2.13 Historic Environment Plan Onshore
AS1-017	GT R4 Limited	2.14 Historic Environment Plan Offshore
AS1-018	GT R4 Limited	2.15 Statutory and Non-Statutory Nature Conservation Sites Plan Onshore
AS1-019	GT R4 Limited	2.16 Statutory and Non-Statutory Nature Conservation Sites Plan Offshore
AS1-020	GT R4 Limited	2.17 Important Hedgerows and Tree Preservation Order Plan
AS1-021	GT R4 Limited	2.18 Onshore Crossing Plan
AS1-022	GT R4 Limited	2.19 Offshore Crossing Plan
AS1-023	GT R4 Limited	2.20 Traffic Regulation Order Plan

EN010130 – Outer Dowsing Offshore Wind (Generating Station) - Examination Library

AS1-024	GT R4 Limited	3.1 Draft Development Consent Order clean
AS1-025	GT R4 Limited	3.1 Draft Development Consent Order Tracked
AS1-026	GT R4 Limited	3.1.1 Schedule of Changes to the Draft DCO
AS1-027	GT R4 Limited	3.3 Other Consents and Licences
AS1-028	GT R4 Limited	3.3 Other Consents and Licences V2 Tracked
AS1-029	GT R4 Limited	4.1 Book of Reference
AS1-030	GT R4 Limited	4.1 Book of Reference Tracked
AS1-031	GT R4 Limited	4.1.1 Schedule of Changes to the Book of Reference
AS1-032	GT R4 Limited	4.3 Statement of Reasons
AS1-033	GT R4 Limited	4.3 Statement of Reasons Tracked
AS1-034	GT R4 Limited	5.1 Consultation Report
AS1-035	GT R4 Limited	5.1 Consultation Report Tracked
AS1-036	GT R4 Limited	5.1.4B Consultation Report Appendix 4B Section 42 Responses
AS1-037	GT R4 Limited	5.1.4B Consultation Report Appendix 4B Section 42 Responses Tracked
AS1-038	GT R4 Limited	6.1.8 Marine Water and Sediment Quality
AS1-039	GT R4 Limited	6.1.8 Marine Water and Sediment Quality Tracked
AS1-040	GT R4 Limited	6.1.12 Chapter 12 Offshore and Intertidal Ornithology
AS1-041	GT R4 Limited	6.1.12 Chapter 12 Offshore and Intertidal Ornithology Tracked
AS1-042	GT R4 Limited	6.1.16 Chapter 16 Aviation, Radar, Military and Communication
AS1-043	GT R4 Limited	6.1.16 Chapter 16 Aviation, Radar, Military and Communication tracked
AS1-044	GT R4 Limited	6.1.17 Chapter 17 Seascape Landscape and Visual Impact Assessment
AS1-045	GT R4 Limited	6.1.17 Chapter 17 Seascape Landscape and Visual Impact Assessment tracked
AS1-046	GT R4 Limited	6.1.19 Chapter 19 Onshore Air Quality
AS1-047	GT R4 Limited	6.1.19 Chapter 19 Onshore Air Quality Tracked
AS1-048	GT R4 Limited	6.1.20 Chapter 20 Onshore Archaeology and Cultural Heritage
AS1-049	GT R4 Limited	6.1.20 Chapter 20 Onshore Archaeology and Cultural Heritage Tracked
AS1-050	GT R4 Limited	6.1.25 Land Use Chapter
AS1-051	GT R4 Limited	6.1.25 Land Use Chapter Tracked
AS1-052	GT R4 Limited	6.1.27 Chapter 27 Onshore Traffic and Transport
AS1-053	GT R4 Limited	6.1.27 Chapter 27 Onshore Traffic and Transport Tracked
AS1-054	GT R4 Limited	6.1.30 Chapter 30 Human Health
AS1-055	GT R4 Limited	6.1.30 Chapter 30 Human Health Tracked
AS1-056	GT R4 Limited	6.2.17 Seascape, Landscape and Visual Figures Part 1 of 3
AS1-057	GT R4 Limited	6.2.21 Chapter 21 Onshore Ecology Figures Part 1
AS1-058	GT R4 Limited	6.2.23 Chapter 23 Geology and Ground Conditions Figures
AS1-059	GT R4 Limited	6.3.23.1 Chapter 23 Appendix 1 Preliminary Land Quality Risk Assessment
AS1-060	GT R4 Limited	6.2.25 Chapter 25 Land Use Figures

AS1-061	GT R4 Limited	6.2.27 Chapter 27 Traffic and Transport Figures
AS1-062	GT R4 Limited	6.3.3.2 Onshore Crossing Schedule
AS1-063	GT R4 Limited	6.3.3.2 Onshore Crossing Schedule Tracked
AS1-064	GT R4 Limited	6.3.12.1 Chapter 12 Appendix 1 Intertidal and Offshore Ornithology Technical Baseline
AS1-065	GT R4 Limited	6.3.12.1 Chapter 12 Appendix 1 Intertidal and Offshore Ornithology Technical Baseline Tracked
AS1-066	GT R4 Limited	6.3.19.1 Chapter 19 Appendix 1 Construction Dust Assessment Methodology
AS1-067	GT R4 Limited	6.3.19.1 Chapter 19 Appendix 1 Construction Dust Assessment Methodology Tracked
AS1-068	GT R4 Limited	6.3.24.2 Chapter 24 Appendix 2 Flood Risk Assessment Onshore ECC & 400kV
AS1-069	GT R4 Limited	6.3.24.2 Chapter 24 Appendix 2 Flood Risk Assessment Onshore ECC & 400kV Tracked
AS1-070	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. 1 of 8
AS1-071	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. Tracked 1 of 8
AS1-072	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. 2 of 8
AS1-073	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. Tracked 2 of 8
AS1-074	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation.3 of 8
AS1-075	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. Tracked 3 of 8
AS1-076	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. 4 of 8
AS1-077	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. Tracked 4 of 8
AS1-078	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. 5 of 8
AS1-079	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. Tracked 5 of 8
AS1-080	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. 6 of 8
AS1-081	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. Tracked 6 of 8
AS1-082	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. 7 of 8
AS1-083	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. Tracked 7 of 8
AS1-084	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. 8 of 8
AS1-085	GT R4 Limited	6.3.24.3 Chapter 24 Appendix 3 Flood Risk Assessment Onshore Substation. Tracked 8 of 8
AS1-086	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 27.1 Onshore Transport Assessment

AS1-087	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 27.1 Onshore Transport Assessment Tracked
AS1-088	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 27.1 Transport Assessment Annex B DfT Traffic Data
AS1-089	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 27.1 Transport Assessment Annex C Automatic Traffic Count Data
AS1-090	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 27.1 Transport Assessment Annex F Construction Access General Arrangement Drawings
AS1-091	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 27.1 Transport Assessment Annex G Core and Local Construction Vehicle Access Routes
AS1-092	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 27.1 Transport Assessment Annex J Trip Generation Calculations
AS1-093	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 27.1 Transport Assessment Annex K Daylight Hours Availability
AS1-094	GT R4 Limited	6.3.27.1 Chapter 27 Appendix 27.1 Transport Assessment Annex N Passing Place Proposals
AS1-095	GT R4 Limited	7.1 Report to Inform Appropriate Assessment Redacted
AS1-096	GT R4 Limited	7.1 Report to Inform Appropriate Assessment Redacted Tracked
AS1-097	GT R4 Limited	7.1 Report to Inform Appropriate Assessment - CONFIDENTIAL
AS1-098	GT R4 Limited	7.1 Report to Inform Appropriate Assessment Tracked - CONFIDENTIAL
AS1-099	GT R4 Limited	7.1.1 Offshore and Intertidal Ornithology Apportioning
AS1-100	GT R4 Limited	7.1.1 Offshore and Intertidal Ornithology Apportioning Tracked
AS1-101	GT R4 Limited	7.3 Report to Inform Appropriate Assessment Appendix 1 Screening Matrices
AS1-102	GT R4 Limited	7.3 Report to Inform Appropriate Assessment Appendix 1 Screening Matrices Tracked
AS1-103	GT R4 Limited	8.10 Outline Landscape and Ecological Management Strategy
AS1-104	GT R4 Limited	8.10 Outline Landscape and Ecological Management Strategy Tracked
AS1-105	GT R4 Limited	8.20 Outline Vessel Management Plan
AS1-106	GT R4 Limited	9.2 Cable Statement
AS1-107	GT R4 Limited	9.2 Cable Statement Tracked
AS1-108	GT R4 Limited	13.2 Addendum Winter Bird Survey 2023-2024
AS1-109	GT R4 Limited	13.3 Applicants Approach to Ordnance Survey Mapping Update

Events

Unaccompanied Site Inspection (USI1) – 22/23 May 2024

EV1-001	Note of Unaccompanied Site Inspection (USI1) - 22 May 2024
EV1-002	Note of Unaccompanied Site Inspection (USI1) - 23 May 2024

Preliminary Meeting (PM) – 10 October 2024

EV2-001	Notification of Preliminary Meeting and Open Floor Hearing – 10 October 2024
EV2-002	Preliminary Meeting 10 October 2024 Updated Agenda
EV2-003	Recording of Preliminary Meeting (PM) - Part 1 - 10 October 2024
EV2-004	Preliminary Meeting (PM) - Part 1 - Transcript - 10 October 2024
EV2-005	Preliminary Meeting Note - 10 October 2024

Open Floor Hearing (OFH) – 10 October 2024

EV3-001	Recording of Open Floor Hearing 1 (OFH1) - Part 1 - 10 October 2024
EV3-002	Open Floor Hearing 1 (OFH1) - Part 1 - Transcript - 10 October 2024

Compulsory Acquisition Hearing 1 (CAH1) - 3 December 2024

EV4-001	Agenda for Compulsory Acquisition Hearing 1 (CAH1) - 3 December 2024
EV4-002	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 1 - 3 December 2024
EV4-003	Transcript of Compulsory Acquisition Hearing 1 (CAH1) - Part 1 - 3 December 2024
EV4-004	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 2 - 3 December 2024
EV4-005	Transcript of Compulsory Acquisition Hearing 1 (CAH1) - Part 2 - 3 December 2024
EV4-006	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 3 - 3 December 2024
EV4-007	Transcript of Compulsory Acquisition Hearing 1 (CAH1) - Part 3 - 3 December 2024
EV4-008	Action Points - Compulsory Acquisition Hearing 1 (CAH1) - 3 December 2024

Issue Specific Hearing 1 (ISH1) - 4 December 2024

EV5-001	Agenda for Issue Specific Hearing 1 (ISH1) - 4 December 2024
EV5-002	Recording of Issue Specific Hearing 1 (ISH1) - 4 December 2024 – Pt. 1
EV5-003	Transcript of Issue Specific Hearing 1 (ISH1) - 4 December 2024 – Pt. 1
EV5-004	Recording of Issue Specific Hearing 1 (ISH1) - 4 December 2024 – Pt. 2
EV5-005	Transcript of Issue Specific Hearing 1 (ISH1) - 4 December 2024 – Pt. 2
EV5-006	Recording of Issue Specific Hearing 1 (ISH) - 4 December 2024 – Pt.3
EV5-007	Transcript of Issue Specific Hearing 1 (ISH1) - 4 December 2024 – Pt. 3
EV5-008	Action Points - Issue Specific Hearing 1 (ISH1) - 4 December 2024

Issue Specific Hearing 2 (ISH2) - 4 December 2024

EV6-001	Agenda for Issue Specific Hearing 2 (ISH2) - 4 December 2024
EV6-002	Recording of Issue Specific Hearing 2 (ISH2) - 5 December 2024
EV6-003	Transcript of Issue Specific Hearing 2 (ISH2) - 5 December 2024
EV6-004	Action Points - Issue Specific Hearing 2 (ISH2) - 4 December 2024

Issue Specific Hearing 3 (ISH3) - 5 December 2024

EV7-001	Agenda for Issue Specific Hearing 3 (ISH3) - 5 December 2024
EV7-002	Recording of Issue Specific Hearing 3 (ISH3) - 5 December 2024 – Pt. 1
EV7-003	Transcript of Issue Specific Hearing 3 (ISH3) - 5 December 2024 – Pt. 1
EV7-004	Recording of Issue Specific Hearing 3 (ISH3) - 5 December 2024 – Pt. 2
EV7-005	Transcript of Issue Specific Hearing 3 (ISH3) - 5 December 2024 – Pt. 2
EV7-006	Recording of Issue Specific Hearing 3 (ISH3) - 5 December 2024 – Pt. 3
EV7-007	Transcript of Issue Specific Hearing 3 (ISH3) - 5 December 2024 – Pt. 3
EV7-008	Recording of Issue Specific Hearing 3 (ISH3) - 5 December 2024 - Pt. 4
EV7-009	Transcript of Issue Specific Hearing 3 (ISH3) - 5 December 2024 – Pt. 4
EV7-010	Action Points - Issue Specific Hearing 3 (ISH3) - 5 December 2024

Issue Specific Hearing 4 (ISH4) - 6 December 2024

EV8-001	Agenda for Issue Specific Hearing 4 (ISH4) - 6 December 2024

Accompanied Site Inspection (ASI) - 11 February 2025

EV9-001	Accompanied Site Inspection Itinerary - 11 February 2025

Issue Specific Hearing 5 (ISH5) - 12 February 2025

EV10-001	Agenda for Issue Specific Hearing 5 (ISH5) - 12 February 2025
EV10-002	Recording of Issue Specific Hearing 5 (ISH5) Part 1 - 12 February 2025
EV10-003	Transcript of Issue Specific Hearing 5 (ISH5) Part 1 - 12 February 2025
EV10-004	Recording of Issue Specific Hearing 5 (ISH5) Part 2 - 12 February 2025
EV10-005	Transcript of Issue Specific Hearing 5 (ISH5) Part 2 - 12 February 2025
EV10-006	Recording of Issue Specific Hearing 5 (ISH5) Part 3 - 12 February 2025
EV10-007	Transcript of Issue Specific Hearing 5 (ISH5) Part 3 - 12 February 2025
EV10-008	Recording of Issue Specific Hearing 5 (ISH5) Part 4 - 12 February 2025
EV10-009	Transcript of Issue Specific Hearing 5 (ISH5) Part 4 - 12 February 2025

EV10-010	Action Points - Issue Specific Hearing 5 (ISH5) - 12 February 2025

Issue Specific Hearing 6 (ISH6) - 13 February 2025

EV11-001	Agenda for Issue Specific Hearing 6 (ISH6) - 13 February 2025
EV11-002	Issue Specific Hearing 6 (ISH6) - Action Points - 13 February 2025
EV11-003	Recording of Issue Specific Hearing 6 (ISH6) Part 1 - 13 February 2025
EV11-004	Transcript of Issue Specific Hearing 6 (ISH6) Part 1 - 13 February 2025
EV11-005	Recording of Issue Specific Hearing 6 (ISH6) Part 2 - 13 February 2025
EV11-006	Transcript of Issue Specific Hearing 6 (ISH6) Part 2 - 13 February 2025
EV11-007	Recording of Issue Specific Hearing 6 (ISH6) Part 3 - 13 February 2025
EV11-008	Transcript of Issue Specific Hearing 6 (ISH6) Part 3 - 13 February 2025
EV11-009	Recording of Issue Specific Hearing 6 (ISH6) Part 4 - 13 February 2025
EV11-010	Transcript of Issue Specific Hearing 6 (ISH6) Part 4 - 13 February 2025

Issue Specific Hearing 7 (ISH7) - 14 February 2025

EV12-001	Agenda for Issue Specific Hearing 7 (ISH7) - 14 February 2025

Issue Specific Hearing 8 (ISH8) – 19 March 2025

EV13-001	Agenda for Issue Specific Hearing 8 (ISH8) – 19 March 2025
EV13-002	Recording of Issue Specific Hearing 8 (ISH8) - 19 March 2025 - Session 1
EV13-003	Issue Specific Hearing 8 (ISH8) - Session 1 - Transcript - 19 March 2025
EV13-004	Recording of Issue Specific Hearing 8 (ISH8) - 19 March 2025 - Session 2
EV13-005	Issue Specific Hearing 8 (ISH8) - Session 2 - Transcript - 19 March 2025
EV13-006	Recording of Issue Specific Hearing 8 (ISH8) - 19 March 2025 - Session 3
EV13-007	Issue Specific Hearing 8 (ISH8) - Session 3 - Transcript - 19 March 2025
EV13-008	Issue Specific Hearing 8 (ISH8) - Action Points - 19 March 2025

Compulsory Acquisition Hearing 2 (CAH2) – 19 March 2025

EV14-001	Compulsory Acquisition Hearing 2 (CAH2) Agenda - 19 March 2025
EV14-002	Recording of Compulsory Acquisition Hearing 2 (CAH2) - 19 March 2025 - Session 1
EV14-003	Compulsory Acquisition Hearing 2 (CAH2) - Session 1 - Transcript - 19 March 2025
EV14-004	Recording of Compulsory Acquisition Hearing 2 (CAH2) - 19 March 2025 - Session 2
EV14-005	Compulsory Acquisition Hearing 2 (CAH2) - Session 2 - Transcript - 19 March 2025
EV14-006	Compulsory Acquisition Hearing 2 (CAH2) - Action Points - 19 March 2025

Representations

Procedural Deadline – 19 September 2024

- Deadline for receipt by the ExA of:
- Responses to the Rule 6 letter relating to Examination procedure, including any submissions about the draft Examination Timetable and the use of virtual methods.
- Responses to Relevant Representations (RRs), as requested by ExA in its Procedural Decision (PD) letter on 31 July 2024 [PD-006]
- Other responses (if applicable) to the ExA's PD letter of 31 July 2024 [PD-006]
- Summaries of all RRs exceeding 1500 words
- Submission of Pre-examination Progress Tracker
- Applicant's submission of the CA and Land Rights Tracker
- Applicant's submission of draft Statement of Commonality for Statements of Common Ground
- Requests to be heard orally at the Preliminary Meeting and under which part of the agenda set out in Annex A
- Requests by Parties to be heard orally at the Open Floor Hearing (OFH) to be held on Thursday 10 October 2024.
- An indicative schedule showing when updated or new benthic and intertidal ecology, offshore and intertidal ornithology and HRA documents are likely to be submitted into the Examination by the Applicant, including their likely content and approximate size.

PD1-001	GT R4 Limited	Procedural Deadline - 15.1 Covering Letter
PD1-002	GT R4 Limited	Procedural Deadline - 1.2 Guide to the Application
PD1-003	GT R4 Limited	Procedural Deadline - 2.0 Schedule of Changes for Plans
PD1-004	GT R4 Limited	Procedural Deadline - 2.1 Works Plans Onshore
PD1-005	GT R4 Limited	Procedural Deadline - 2.2 Offshore Works Plans
PD1-006	GT R4 Limited	Procedural Deadline - 2.3 Onshore Location Plan
PD1-007	GT R4 Limited	Procedural Deadline - 2.4 Offshore Location Plan
PD1-008	GT R4 Limited	Procedural Deadline - 2.5 Land Plans
PD1-009	GT R4 Limited	Procedural Deadline - 2.6 Crown Land Plans Onshore
PD1-010	GT R4 Limited	Procedural Deadline - 2.7 Crown Land Plans Offshore
PD1-011	GT R4 Limited	Procedural Deadline - 2.8 Offshore Order Limits and Grid Coordinates Plan
PD1-012	GT R4 Limited	Procedural Deadline - 2.9 Access to Works Plan

PD1-013	GT R4 Limited	Procedural Deadline - 2.10 Public Rights of Way Plan
PD1-014	GT R4 Limited	Procedural Deadline - 2.11 Streets Plan
PD1-015	GT R4 Limited	Procedural Deadline - 2.12 Special Category Land Onshore
PD1-016	GT R4 Limited	Procedural Deadline - 2.13 Historic Environment Plan Onshore
PD1-017	GT R4 Limited	Procedural Deadline - 2.14 Historic Environment Plan Offshore
PD1-018	GT R4 Limited	Procedural Deadline - 2.15 Statutory and Non-Statutory Nature Conservation Sites Plan Onshore
PD1-019	GT R4 Limited	Procedural Deadline - 2.16 Statutory and Non-Statutory Nature Conservation Sites Plan Offshore
PD1-020	GT R4 Limited	Procedural Deadline - 2.17 Important Hedgerows and Tree Preservation Order Plan
PD1-021	GT R4 Limited	Procedural Deadline - 2.18 Onshore Crossing Plan
PD1-022	GT R4 Limited	Procedural Deadline - 2.19 Offshore Crossing Plan
PD1-023	GT R4 Limited	Procedural Deadline - 2.20 Traffic Regulation Order Plan
PD1-024	GT R4 Limited	Procedural Deadline - 3.1 Draft Development Consent Order Clean
PD1-025	GT R4 Limited	Procedural Deadline - 3.1 Draft Development Consent Order Tracked
PD1-026	GT R4 Limited	Procedural Deadline - 3.1.1 Schedule of Changes to the Draft Development Consent Order
PD1-027	GT R4 Limited	Procedural Deadline - 3.2 Explanatory Memorandum Clean
PD1-028	GT R4 Limited	Procedural Deadline - 3.2 Explanatory Memorandum Tracked
PD1-029	GT R4 Limited	Procedural Deadline - 4.1 Book of Reference
PD1-030	GT R4 Limited	Procedural Deadline - 4.1 Book of Reference Tracked
PD1-031	GT R4 Limited	Procedural Deadline - 4.1.1 Schedule of Changes to the Book of Reference
PD1-032	GT R4 Limited	Procedural Deadline - 4.3 Statement of Reasons Clean
PD1-033	GT R4 Limited	Procedural Deadline - 4.3 Statement of Reasons Tracked
PD1-034	GT R4 Limited	Procedural Deadline - 6.3.3.2 Appendix 3.2 Onshore Crossing Schedule Clean
PD1-035	GT R4 Limited	Procedural Deadline - 6.3.3.2 Appendix 3.2 Onshore Crossing Schedule Tracked

PD1-036	GT R4 Limited	Procedural Deadline - 6.3.24.2 Chapter 24 Appendix 2 Flood Risk Assessment Onshore ECC & 400kV Clean
PD1-037	GT R4 Limited	Procedural Deadline - 6.3.24.2 Chapter 24 Appendix 2 Flood Risk Assessment Onshore ECC & 400kV Tracked
PD1-038	GT R4 Limited	Procedural Deadline - 8.1 Outline Code of Construction Practice Clean
PD1-039	GT R4 Limited	Procedural Deadline - 8.1 Outline Code of Construction Practice Tracked
PD1-040	GT R4 Limited	Procedural Deadline - 8.1.3 Outline Soil Management Plan Clean
PD1-041	GT R4 Limited	Procedural Deadline - 8.1.3 Outline Soil Management Plan Tracked
PD1-042	GT R4 Limited	Procedural Deadline - 8.5 Outline Cable Specification and Installation Plan Clean
PD1-043	GT R4 Limited	Procedural Deadline - 8.5 Outline Cable Specification and Installation Plan Tracked
PD1-044	GT R4 Limited	Procedural Deadline - 8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities Clean
PD1-045	GT R4 Limited	Procedural Deadline - 8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities Tracked
PD1-046	GT R4 Limited	Procedural Deadline - 8.6.2 Outline Marine Mammal Mitigation Protocol for Unexploded Ordnance Clearance Clean
PD1-047	GT R4 Limited	Procedural Deadline - 8.6.2 Outline Marine Mammal Mitigation Protocol for Unexploded Ordnance Clearance Tracked
PD1-048	GT R4 Limited	Procedural Deadline - 8.7 In Principle Southern North Sea Special Area of Conservation Site Integrity Plan Clean
PD1-049	GT R4 Limited	Procedural Deadline - 8.7 In Principle Southern North Sea Special Area of Conservation Site Integrity Plan Tracked
PD1-050	GT R4 Limited	Procedural Deadline - 8.8 Outline Marine Archaeological Written Scheme of Investigation Clean
PD1-051	GT R4 Limited	Procedural Deadline - 8.8 Outline Marine Archaeological Written Scheme of Investigation Tracked
PD1-052	GT R4 Limited	Procedural Deadline - 8.9 Onshore Outline Written Scheme of Investigation for Archaeological Works Clean
PD1-053	GT R4 Limited	Procedural Deadline - 8.9 Onshore Outline Written Scheme of Investigation for Archaeological Works Tracked

PD1-054	GT R4 Limited	Procedural Deadline - 8.10 Outline Landscape and Ecological Management Strategy Clean
PD1-055	GT R4 Limited	Procedural Deadline - 8.10 Outline Landscape and Ecological Management Strategy Clean [CONFIDENTIAL]
PD1-056	GT R4 Limited	Procedural Deadline - 8.10 Outline Landscape and Ecological Management Strategy Tracked
PD1-057	GT R4 Limited	Procedural Deadline - 8.10 Outline Landscape and Ecological Management Strategy Tracked [CONFIDENTIAL]
PD1-058	GT R4 Limited	Procedural Deadline - 8.13 Schedule of Mitigation Clean
PD1-059	GT R4 Limited	Procedural Deadline - 8.13 Schedule of Mitigation Tracked
PD1-060	GT R4 Limited	Procedural Deadline - 8.14 Outline Fisheries Liaison and Co-existence Plan Clean
PD1-061	GT R4 Limited	Procedural Deadline - 8.14 Outline Fisheries Liaison and Co-existence Plan Tracked
PD1-062	GT R4 Limited	Procedural Deadline - 8.17 Outline Public Access Management Plan Clean
PD1-063	GT R4 Limited	Procedural Deadline - 8.17 Outline Public Access Management Plan Tracked
PD1-064	GT R4 Limited	Procedural Deadline - 8.20 Outline Vessel Management Plan Clean
PD1-065	GT R4 Limited	Procedural Deadline - 8.20 Outline Vessel Management Plan Tracked
PD1-066	GT R4 Limited	Procedural Deadline - 8.22 Outline Biogenic Reef Mitigation Plan Clean
PD1-067	GT R4 Limited	Procedural Deadline - 8.22 Outline Biogenic Reef Mitigation Plan Tracked
PD1-068	GT R4 Limited	Procedural Deadline - 9.2 Cable Statement Clean
PD1-069	GT R4 Limited	Procedural Deadline - 9.2 Cable Statement Tracked
PD1-070	GT R4 Limited	Procedural Deadline - 15.2 The Applicant's Response to the Rule 17 Letter dated 31 July 2024
PD1-071	GT R4 Limited	Procedural Deadline - 15.3 The Applicant's Responses to Relevant Representations
PD1-072	GT R4 Limited	Procedural Deadline - 15.4 Compulsory Acquisition and Land Rights Tracker
PD1-073	GT R4 Limited	Procedural Deadline - 15.5 Pre-examination Principal Issues Progress Tracker
PD1-074	GT R4 Limited	Procedural Deadline - 15.6 Erratum to Site Selection and Consideration of Alternatives
PD1-075	GT R4 Limited	Procedural Deadline - 15.7 Noise Bund Hydraulic Modelling Report

PD1-076	GT R4 Limited	Procedural Deadline - 15.7A Noise Bund Hydraulic Modelling Report, Appendix C Figures (Part 1 of 4)
PD1-077	GT R4 Limited	Procedural Deadline - 15.7A Noise Bund Hydraulic Modelling Report, Appendix C Figures (Part 2 of 4)
PD1-078	GT R4 Limited	Procedural Deadline - 15.7A Noise Bund Hydraulic Modelling Report, Appendix C Figures (Part 3 of 4)
PD1-079	GT R4 Limited	Procedural Deadline - 15.7A Noise Bund Hydraulic Modelling Report, Appendix C Figures (Part 4 of 4)
PD1-080	GT R4 Limited	Procedural Deadline - 15.8 Onshore Archaeological Geophysical Report
PD1-081	GT R4 Limited	Procedural Deadline - 15.9 Environmental Report for the Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor
PD1-082	GT R4 Limited	Procedural Deadline - 15.9A Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix A Figures Part 1 of 2
PD1-083	GT R4 Limited	Procedural Deadline - 15.9A Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix A Figures Part 2 of 2
PD1-084	GT R4 Limited	Procedural Deadline - 15.9B Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix B Blockage Modelling Results
PD1-085	GT R4 Limited	Procedural Deadline - 15.9C Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix C Underwater Noise Modelling Report
PD1-086	GT R4 Limited	Procedural Deadline - 15.9D Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix D Ornithology Baseline Summary
PD1-087	GT R4 Limited	Procedural Deadline - 15.9E Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix E Collision Risk Modelling
PD1-088	GT R4 Limited	Procedural Deadline - 15.9F Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix F Offshore Ornithology Displacement Assessment
PD1-089	GT R4 Limited	Procedural Deadline - 15.9G Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix G MRSea Modelling for Offshore Ornithology

PD1-090	GT R4 Limited	Procedural Deadline - 15.9H Review of Offshore Restricted Build Area Impact on Shipping Displacement and Collision Risk
PD1-091	GT R4 Limited	Procedural Deadline - 15.10 Habitats Regulations Assessment for the Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor
PD1-092	GT R4 Limited	Procedural Deadline - 15.10A Habitats Regulations Assessment for the Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix A Offshore and Intertidal Ornithology Apportioning
PD1-093	GT R4 Limited	Procedural Deadline - 15.11 Additional clarifications relating to Natural England's Relevant Representations (Appendix I Onshore Ornithology)
PD1-094	GT R4 Limited	Procedural Deadline - 15.12 Interim Population Consequences of Disturbance Modelling Report
PD1-095	GT R4 Limited	Procedural Deadline - 15.13 Offshore Export Cable Corridor Sabellaria Spinulosa Reanalysis and Report
PD1-096	GT R4 Limited	Procedural Deadline - 15.14 Addendum to RIAA Onshore Ornithology
PD1-097	GT R4 Limited	Procedural Deadline - 15.15 Disposal Site Characterisation Report
PD1-098	GT R4 Limited	Procedural Deadline - 15.16 Collaborative Delivery of Kittiwake Compensation Letter of Intent
PD1-099	GT R4 Limited	Procedural Deadline - 15.17 Letter from Jersey Government Anti-Predator Fence East of Plemont, Jersey, Channel Islands
PD1-100	GT R4 Limited	Procedural Deadline - 15.18 Draft Statement of Commonality
PD1-101	GT R4 Limited	Procedural Deadline - 15.19 The Applicant's Response to Transboundary Consultation Responses
PD1-102	GT R4 Limited	Procedural Deadline - Responses to the Rule 6 letter relating to Examination procedure, including any submissions about the draft Examination Timetable and the use of virtual methods
PD1-103	Maritime & Coastguard Agency	Procedural Deadline - Notice of Nil Return of Principal Areas of Disagreement Statements (PADS)
PD1-104	Environment Agency	Procedural Deadline - Other responses (if applicable) to the ExA's PD letter of 31 July 2024 [PD-006]-Principal Areas of Disagreement

PD1-105	Historic England	Procedural Deadline - Other responses (if applicable) to the ExA's PD letter of 31 July 2024 [PD-006]-Principal Areas of Disagreement
PD1-106	National Grid Electricity Transmissions plc	Procedural Deadline - Other responses (if applicable) to the ExA's PD letter of 31 July 2024 [PD-006]-Principal Areas of Disagreement
PD1-107	National Grid Electricity Transmissions plc	Procedural Deadline - Other responses (if applicable) to the ExA's PD letter of 31 July 2024 [PD-006]-Feedback in relation to Principal Issue 4: Cumulative Effects
PD1-108	Natural England	Procedural Deadline - Responses to the Rule 6 letter relating to Examination procedure, including any submissions about the draft Examination Timetable and the use of virtual methods
PD1-109	RSPB	Procedural Deadline - Summaries of all RRs exceeding 1500 words
PD1-110	T.H. Clements & Son Limited	Procedural Deadline - Summaries of all RRs exceeding 1500 words
PD1-111	Lincolnshire County Council	Procedural Deadline - Other responses (if applicable) to the ExA's PD letter of 31 July 2024 [PD-006]-Principal Areas of Disagreement
PD1-112	Ministry of Defence	Procedural Deadline - Response to Rule 6
PD1-113	RSPB	Procedural Deadline - Notice of intention to submit Principal Areas of Disagreement Summary (PADS)
PD1-114	Marine Management Organisation	Procedural Deadline - Summary of Relevant Representation
PD1-115	Marine Management Organisation	Procedural Deadline - Responses to Relevant Representations
PD1-116	Marine Management Organisation	Procedural Deadline - Response to Rule 6
PD1-117	UK Chamber of Shipping	Response to the ExA's Procedural Decision Letter of 31 July 2024

Deadline 1 – 24 October 2024

For receipt by the Examining Authority of:

- Comments on any updates to application documents submitted by the Applicant before or at the PM
- Submission of comments on oral submissions made and written summaries of oral case put at the OFH held on 10 October 2024
- Requests from Affected Persons to be heard at any subsequent Compulsory Acquisition Hearing (CAH). Requests by Affected Persons (defined in section 59(4) of the Planning Act 2008)
- Requests by Interested Parties to attend an Accompanied Site Inspection (ASI)
- Suggested locations for the ASI including justification, and whether such locations can be seen from public land or require private access, for consideration by the ExA
- Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA
- Notification of wish to have future correspondence received electronically
- Applicant's updated Book of Reference (BoR) and Schedule of Changes to the BoR (If required) in clean and tracked versions
- Applicant's planning obligations, proximity and commercial side agreements tracking list and any draft s106 agreement (see Annex F of the ExA's Rule 6 letter [PD-009])
- Applicant's updated Schedule of Negotiations and Powers Sought in clean and tracked versions
- Comments on the Applicant's Land Rights Tracker
- Initial draft Statements of Common Ground
- Comments on the Applicant's draft Statement of Commonality of Statements of Common Ground
- Written Representations (WRs), as requested by ExA in its PD letter on 31 July 2024 [PD-006]
- Summaries of any WRs that exceed 1500 words
- Summaries of all RRs exceeding 1500 words (if not provided at the Pre-Examination Procedural Deadline)
- Responses to RRs (if not provided at the Pre-Examination Procedural Deadline)
- Local Impact Reports (LIRs) from local authorities (see Annex B)
- Requests from Interested Parties to be heard at any subsequent Open Floor Hearing (OFH)
- A revised version of the draft Development Consent Order (draft DCO) in clean and tracked versions
- An updated Explanatory Memorandum in clean and tracked versions (if required)
- Comments on any further information / submissions accepted by the ExA
- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

REP1-001	GT R4 Limited	18.1 The Applicant's Deadline 1 Covering Letter
REP1-002	GT R4 Limited	1.2 Guide to the Application
REP1-003	GT R4 Limited	2.0 Schedule of Changes for Plans
REP1-004	GT R4 Limited	2.5 Land Plans (Part 1 of 2)
REP1-005	GT R4 Limited	2.5 Land Plans (Part 2 of 2)
REP1-006	GT R4 Limited	3.1 Draft Development Consent Order (clean)
REP1-007	GT R4 Limited	3.1 Draft Development Consent Order (tracked)
REP1-008	GT R4 Limited	3.1.1 Schedule of Changes to the Draft Development Consent Order
REP1-009	GT R4 Limited	4.1 Book of Reference (clean)
REP1-010	GT R4 Limited	4.1 Book of Reference (tracked)
REP1-011	GT R4 Limited	4.1.1 Schedule of Changes to the Book of Reference
REP1-012	GT R4 Limited	4.2 Compulsory Acquisition Funding Statement (clean)
REP1-013	GT R4 Limited	4.2 Compulsory Acquisition Funding Statement (tracked)
REP1-014	GT R4 Limited	4.3 Statement of Reasons (clean)
REP1-015	GT R4 Limited	4.3 Statement of Reasons (tracked)
REP1-016	GT R4 Limited	7.9 Compensation Funding Statement (clean)
REP1-017	GT R4 Limited	7.9 Compensation Funding Statement (tracked)
REP1-018	GT R4 Limited	15.4 Compulsory Acquisition and Land (Schedule of Negotiations & Powers Sought) (clean)
REP1-019	GT R4 Limited	15.4 Compulsory Acquisition and Land Rights Tracker (Schedule of Negotiations & Powers Sought) (tracked)
REP1-020	GT R4 Limited	18.2 The Applicant's Responses to Additional Submission and Relevant Representations (if not provided at the Pre-Examination Procedural Deadline)
REP1-021	GT R4 Limited	18.3 The Applicant's Comments on Oral Submissions made and Written Summary of Oral Case at the Open Floor Hearing held on 10 October 2024
REP1-022	GT R4 Limited	18.4 The Applicant's suggested locations for the Accompanied Site Inspection (ASI)
REP1-023	GT R4 Limited	18.5 The Applicant's planning obligations and side agreements tracker
REP1-024	GT R4 Limited	18.6 The Applicant's response to the ExA's request for further information in relation to the proposed ORBA and the revision to the Offshore ECC
REP1-025	GT R4 Limited	18.7 (Draft) Statement of Common Ground with Anglian Water Services

REP1-026	GT R4 Limited	18.8 (Draft) Statement of Common Ground with the Environment Agency
REP1-027	GT R4 Limited	18.9 (Draft) Statement of Common Ground with Historic England
REP1-028	GT R4 Limited	18.10 (Draft) Statement of Common Ground with Lincolnshire County Council
REP1-029	GT R4 Limited	18.11 (Draft) Statement of Common Ground with Boston Borough Council, East Lindsey District Council, South Holland District Council
REP1-030	GT R4 Limited	18.12 (Draft) Statement of Common Ground with Maritime and Coastguard Agency
REP1-031	GT R4 Limited	18.13 (Draft) Statement of Common Ground with NATS En Route LTD
REP1-032	GT R4 Limited	18.15 (Draft) Statement of Common Ground with National Grid Electricity Transmission
REP1-033	GT R4 Limited	18.16 (Draft) Statement of Common Ground with Chamber of Shipping
REP1-034	GT R4 Limited	18.17 (Draft) Statement of Common Ground with the Marine Management Organisation
REP1-035	GT R4 Limited	18.18 (Draft) Statement of Common Ground with the Ministry of Defence
REP1-036	GT R4 Limited	18.19 (Draft) Statement of Common Ground with the Royal Society for the Protection of Birds
REP1-037	GT R4 Limited	18.20 (Draft) Statement of Common Ground with Trinity House
REP1-038	GT R4 Limited	18.21 The Applicant's Change Notification
REP1-039	GT R4 Limited	18.22 The Applicant's Change Request dated 24 October 2024
REP1-040	Jenny Pennington	Submission of comments on oral submissions made and written summaries of oral case put at the OFH held on 10 October 2024
REP1-041	National Grid Electricity Transmission Plc	Written Representations
REP1-042	Historic England	Written Representations
REP1-043	Lincolnshire County Council	Written Representations
REP1-044	Maritime and Coastguard Agency	Written Representations
REP1-045	Network Rail Infrastructure Limited	Written Representations
REP1-046	Perenco	Written Representations
REP1-047	Royal Society for the Protection of Birds	Written Representations
REP1-048	Environment Agency	Written Representations
REP1-049	Walter Smith (Gosberton) Ltd	Written Representations

REP1-050	T.H. Clements & Son Limited	Written Representations
REP1-051	Julie Ann Mason	Written Representations
REP1-052	East Lindsey District Council, Boston Borough Council and South Holland District Council	Local Impact Reports (LIRs) from local authorities (see Annex B)
REP1-053	Lincolnshire County Council	Local Impact Reports (LIRs) from local authorities (see Annex B)
REP1-054	Royal Society for the Protection of Birds	Summaries of any WRs that exceed 1500 words
REP1-055	Environment Agency	Summaries of any WRs that exceed 1500 words
REP1-056	Marine Management Organisation	Late Submission for Deadline 1 accepted at the discretion of the Examining Authority - Written Representation
REP1-057	Natural England	Cover Letter
REP1-058	Natural England	Appendix B1 Natural England's comments on Marine Processes including the Offshore Restricted Build Area and Revision to the Offshore Export Cable Corridor Appendix B Blockage Modelling Results
REP1-059	Natural England	Appendix C1 Natural England's comments on Benthic Ecology Documents
REP1-060	Natural England	Appendix E1 Natural England's comments and updated advice on Marine Mammals
REP1-061	Natural England	Appendix F1 Natural England's Comments on Offshore and Intertidal Ornithology
REP1-062	Natural England	Appendix H1 Natural England's comments and updated advice on Onshore Ecology (Land Quality Assessment, Hydrology, Protected Species and Biodiversity Net Gain)
REP1-063	Natural England	Appendix H2 Natural England's Clarifications and Advice Regarding Soils
REP1-064	Natural England	Appendix J1 - Risk and Issues Log
REP1-065	T.H. Clements & Son Limited	Suggested locations for the ASI including justification, and whether such locations can be seen from public land or require private access, for consideration by the ExA
REP1-066	Natural England	Late Submission for Deadline 1 – Appendix I1 Natural England's Advice on Onshore Ornithology

Deadline 2 – 27 November 2024

For receipt by the Examining Authority of:

- Responses to ExQ1
- Written Representations (WRs), if not provided at Deadline 1
- Summaries of any WRs that exceed 1500 words, if not provided at Deadline 1
- Comments on the LIR(s)
- Applicant to provide a draft itinerary for the ASI if required
- Applicant's update to the Guide to the Application
- Applicant's update to the Statements of Commonality of Statements of Common Ground
- Applicant's update to the Land Rights Tracker
- An updated version of the draft DCO in clean and tracked versions (if required as a result of ExQ1)
- Schedule of changes to the draft DCO (if required)
- An updated Explanatory Memorandum in clean and tracked versions (if required)
- Applicant's updated BoR and Schedule of Changes to the BoR (If required) in clean and tracked versions
- Responses to comments on RRs
- Comments on any other submissions received at Deadline 1
- Initial report on the inter-relationship with other infrastructure projects (as described in Annex B)
- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

REP2-001	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	1.2 Guide to the Application
REP2-002	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.0 Schedule of Changes for Plans
REP2-003	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.10 Public Rights of Way Plan
REP2-004	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.18 Onshore Crossing Plan
REP2-005	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.5 Land Plans (Part 1 of 2)
REP2-006	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.5 Land Plans (Part 2 of 2)
REP2-007	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (excluding ORBA)
REP2-008	GT R4 Limited (trading as Outer	3.1 Draft Development Consent Order (including ORBA) (Clean)

	Dowsing Offshore Wind)	
REP2-009	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (including ORBA) (Tracked)
REP2-010	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (showing addition of the ORBA)
REP2-011	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1.1 Schedule of Changes to the Draft Development Consent Order
REP2-012	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (including ORBA) (Clean)
REP2-013	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 An updated Explanatory Memorandum (including ORBA) (Tracked)
REP2-014	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (excluding ORBA)
REP2-015	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (showing addition of the ORBA)
REP2-016	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1 Book of Reference (Clean)
REP2-017	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1 Book of Reference (Tracked)
REP2-018	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1.1 Schedule of Changes to the Book of Reference
REP2-019	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.2 Compulsory Acquisition Funding Statement (Clean)
REP2-020	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.2 Compulsory Acquisition Funding Statement (Tracked)
REP2-021	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.3 Statement of Reasons (Clean)
REP2-022	GT R4 Limited (trading as Outer	4.3 Statement of Reasons (Tracked)

	Dowsing Offshore Wind)	
REP2-023	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.3.2 Chapter 3 Project Description Volume 3 Appendices Appendix 3.2 Onshore Crossing Schedule (Clean)
REP2-024	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.3.2 Chapter 3 Project Description Volume 3 Appendices Appendix 3.2 Onshore Crossing Schedule (Tracked)
REP2-025	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.5 Predator Control Evidence Base and Roadmap (Clean)
REP2-026	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.5 Predator Control Evidence Base and Roadmap (Tracked)
REP2-027	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.9 Compensation Funding Statement (Clean)
REP2-028	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.9 Compensation Funding Statement (Tracked)
REP2-029	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Clean)
REP2-030	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Tracked)
REP2-031	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.1 Outline Noise and Vibration Management Plan (Clean)
REP2-032	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.1 Outline Noise and Vibration Management Plan (Tracked)
REP2-033	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.5 Outline Cable Specification and Installation Plan (Clean)
REP2-034	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.5 Outline Cable Specification and Installation Plan (Tracked)
REP2-035	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities (Clean)
REP2-036	GT R4 Limited (trading as Outer	8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities (Tracked)

	Dowsing Offshore Wind)	
REP2-037	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.2 Outline Marine Mammal Mitigation Protocol for Unexploded Ordnance Clearance (Clean)
REP2-038	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.2 Outline Marine Mammal Mitigation Protocol for Unexploded Ordnance Clearance (Tracked)
REP2-039	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.13 Schedule of Mitigation (Clean)
REP2-040	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.13 Schedule of Mitigation (Tracked)
REP2-041	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.17 Outline Public Access Management Plan (Clean)
REP2-042	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.17 Outline Public Access Management Plan (Tracked)
REP2-043	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.22 Outline Biogenic Reef Mitigation Plan (Clean)
REP2-044	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.22 Outline Biogenic Reef Mitigation Plan (Tracked)
REP2-045	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.4 Compulsory Acquisition and Land Rights Tracker (Schedule of Negotiations & Powers Sought) (Clean)
REP2-046	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.4 Compulsory Acquisition and Land Rights Tracker (Schedule of Negotiations & Powers Sought) (Tracked)
REP2-047	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.18 Statement of Commonality of Statements of Common Ground
REP2-048	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.4.1 Applicant's draft itinerary for Accompanied Site Inspection
REP2-049	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14 Draft Statement of Common Ground with Natural England
REP2-050	GT R4 Limited (trading as Outer	19.1 The Applicant's Deadline 2 Covering Letter

	Dowsing Offshore Wind)	
REP2-051	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.2 The Applicant's Responses to The ExA's First Written Questions (ExQ1)
REP2-052	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.3 The Applicant's Responses to Host Authorities Local Impact Reports
REP2-053	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.4 The Applicant's Comments on Deadline 1 Submissions
REP2-054	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.5 Applicant's Responses to Comments on Relevant Representations
REP2-055	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.6 Inter-relationship with other infrastructure projects
REP2-056	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.7 Array Layout Yield Study
REP2-057	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.8 Levels of precaution in the assessment and compensation calculations for offshore ornithology
REP2-058	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.9 Consideration of bioseasons in the assessment of guillemot
REP2-059	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.10 Rates of displacement in guillemot and razorbill
REP2-060	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.11 Lead-in periods for kittiwake breeding on Artificial Nesting Structures
REP2-061	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.12 Letter of Consent to Disapplication of Legislation-Port of Boston
REP2-062	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.13 The Crown Estate Letter of Comfort
REP2-063	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.14 BT Letter of Comfort
REP2-064	GT R4 Limited (trading as Outer	19.15 The Applicant's Change Notification dated 27 November 2024

	Dowsing Offshore Wind)	
REP2-065	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.16 The Applicant's Change Request dated 27 November 2024
REP2-066	Corporation of Trinity House of Deptford Strond	Responses to ExQ1
REP2-067	Environment Agency	Responses to ExQ1
REP2-068	Historic England	Responses to ExQ1
REP2-069	Lincolnshire County Council	Responses to ExQ1
REP2-070	Lincolnshire Wildlife Trust	Responses to ExQ1
REP2-071	Maritime and Coastguard Agency	Responses to ExQ1
REP2-072	Ministry of Defence	Responses to ExQ1
REP2-073	National Grid Electricity Transmission plc	Responses to ExQ1
REP2-074	Natural England	Responses to ExQ1
REP2-075	Nicholas Alexander Sermon	Responses to ExQ1
REP2-076	Ørsted IPs	Responses to ExQ1
REP2-077	Perenco UK Limited	Responses to ExQ1
REP2-078	South Holland IDB	Responses to ExQ1
REP2-079	T.H. Clements & Son Limited	Responses to ExQ1
REP2-080	The Crown Estate	Responses to ExQ1
REP2-081	The Royal Society for the Protection of Birds	Responses to ExQ1
REP2-082	UK Chamber of Shipping	Responses to ExQ1
REP2-083	Witham Fourth District IDB	Responses to ExQ1
REP2-084	Cadent Gas Limited	Written Representations (WRs)
REP2-085	Coal Authority	Written Representations (WRs)
REP2-086	*NOT IN USE*	
REP2-087	Woodlands Farm (Kirton) Limited and Andrew Peter Dennis	Written Representations (WRs)
REP2-088	NATS Safeguarding	Other
REP2-089	Anthony Kindred	Responses to comments on RRs
REP2-090	Fosdyke playing field	Responses to comments on RRs
REP2-091	T.H. Clements & Son Limited	Summaries of any WRs that exceed 1500 words, if not provided at Deadline 1
REP2-092	Marine Management Organisation	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules
REP2-093	Natural England	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules - Cover Letter

REP2-094	Natural England	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules - Risk and Issues Log
REP2-095	Natural England	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules - Risk and Issues Log - 1.2 – Summary of Disagreements in Offshore Ornithology Assessment Methodology
REP2-096	T H Clements	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

Deadline 3 - 13 December 2024

Deadline for receipt by the ExA of:

- Post-hearing submissions including written summaries of oral case put at any of the hearings during the w/c 2 December 2024
- Comments on the Applicant's update to the draft DCO
- Comments on other submissions received at Deadline 2
- Comments on the Applicant's update to the Land Rights Tracker
- Applicant's update to the Land Rights Tracker
- Comments on the update to the Statements of Commonality of Statements of Common Ground
- Comments on draft ASI itinerary produced by the Applicant (if required)
- Comments on WRs
- Applicant to provide an updated Guide to the Application
- An updated version of the draft DCO in clean and tracked versions (if required)
- Schedule of changes to the draft DCO (if required)
- An updated Explanatory Memorandum in clean and tracked versions (if required)
- Applicant's updated BoR and Schedule of Changes to the BoR (If required) in clean and tracked versions
- Updated Statements of Commonality of Statements of Common Ground
- Applicant's updated Schedule of Negotiations and Powers Sought in clean and tracked versions
- Applicant's 'Mid-Examination' Progress Tracker
- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

REP3-001	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.1 The Applicant's Deadline 3 Covering Letter
REP3-002	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	1.2 Guide to the Application
REP3-003	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.0 Schedule of Changes for Plans
REP3-004	GT R4 Limited (trading as Outer Dowsing Offshore)	2.5 Land Plans (Part 1 of 2)

	Wind)	
REP3-005	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.5 Land Plans (Part 2 of 2)
REP3-006	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Clean)
REP3-007	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Tracked)
REP3-008	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1.1 Schedule of Changes to the Draft Development Consent Order
REP3-009	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Clean)
REP3-010	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Tracked)
REP3-011	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1 Book of Reference (Clean)
REP3-012	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1 Book of Reference (Tracked)
REP3-013	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1.1 Schedule of Changes to the Book of Reference
REP3-014	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.3 Statement of Reasons (Clean)
REP3-015	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.3 Statement of Reasons (Tracked)
REP3-016	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.3.2 Onshore Crossing Schedule (Clean)
REP3-017	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.3.2 Onshore Crossing Schedule (Tracked)
REP3-018	GT R4 Limited (trading as Outer Dowsing Offshore	6.3.9.2 Benthic and Intertidal Ecology Benthic and Intertidal Ecology Volume 3 Appendices Appendix 3.2

	Wind)	
REP3-019	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.27.1.A Annex A Special Order AIL Swept Path Analysis of Appendix 27.1 Transport Assessment
REP3-020	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Clean)
REP3-021	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Tracked)
REP3-022	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Clean)
REP3-023	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Tracked)
REP3-024	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.7 Outline Organic Land Protocol
REP3-025	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.9 Outline Onshore Written Scheme Investigation (WSI) for Archaeological Works (Clean)
REP3-026	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.9 Outline Onshore Written Scheme Investigation (WSI) for Archaeological Works (Tracked)
REP3-027	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) (Clean)
REP3-028	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) (Tracked)
REP3-029	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) CONFIDENTIAL (Clean)
REP3-030	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) CONFIDENTIAL (Tracked)
REP3-031	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.15 Outline Construction Traffic Management Plan (Clean)
REP3-032	GT R4 Limited (trading as Outer Dowsing Offshore	8.15 Outline Construction Traffic Management Plan (Tracked)

	Wind)	
REP3-033	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.4 Compulsory Acquisition and Land Rights Tracker (Schedule of Negotiations & Powers Sought) (Clean)
REP3-034	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.4 Compulsory Acquisition and Land Rights Tracker (Schedule of Negotiations & Powers Sought) (Tracked)
REP3-035	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.13 Offshore Export Cable Corridor Sabellaria Spinulosa Reanalysis and Report
REP3-036	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.18 Statement of Commonality of Statements of Common Ground
REP3-037	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.2 The Applicant's Comments on Deadline 2 Submissions
REP3-038	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.3 The Applicant's Comments on Deadline 1 Written Representations
REP3-039	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.4.1 The Applicant's Written Summary of oral case put at the Compulsory Acquisition Hearing, 3rd Dec
REP3-040	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.4.2 The Applicant's Written Summary of oral case put at the Issue Specific Hearing 1 held on 4 December 2024
REP3-041	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.4.3 The Applicant's Written Summary of oral case put at Issue Specific Hearing 2 on Offshore matters, 4th Dec
REP3-042	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.10 Clarification Note Borehole Locations Plan
REP3-043	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.11 Letter of No Impediment received from Natural England – Great Crested Newt
REP3-044	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.12 Letter of No Impediment received from Natural England – Water Vole
REP3-045	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.13 Clarification Note Abnormal Load Alternative Routes
REP3-046	GT R4 Limited (trading as Outer Dowsing Offshore	20.14 Clarification Note King Charles III England Coast Path

	Wind)	
REP3-047	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.15 Sandwave Levelling Study
REP3-048	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.16 Marine Mammals Revised Figures as requested in Natural England's RR (RR-045)
REP3-049	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.17 Guillemot and Razorbill Compensation Quanta
REP3-050	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.18 The Applicant's Change Notification dated 13 December 2024 – Deadline 3
REP3-051	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.4.4 The Applicant's Written Summary of oral case put at the Issue Specific Hearing 3 held on 5 December 2024
REP3-052	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.5 The Applicant's Mid Examination Principal Issues Progress Tracker
REP3-053	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.6 The Applicant's Response to Action Points 2, 7, 9 of ISH3 and Correction to LV 1.4 Response
REP3-054	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.7 The Applicant's comments on ExQ1 Responses
REP3-055	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.8 Clarification Note Climate Change, Increased Rainfall & Soil Impacts
REP3-056	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.9 Clarification Note Land Take, Soil calculation and Storage Bunds
REP3-057	Lincolnshire County Council	Post-hearing submissions including written summaries of oral case at ISH 1 & ISH 3
REP3-058	South Holland DC, Boston BC and East Lindsey DC	Post-hearing submissions including written summaries of oral case at ISH 1 & ISH 3
REP3-059	T.H. Clements & Son Limited	Post-hearing submissions including written summaries of oral case at ISH 1
REP3-060	T.H. Clements & Son Limited	Post-hearing submissions including written summaries of oral case at ISH 3
REP3-061	T.H. Clements & Son Limited	Post-hearing submissions including written summaries of oral case at CAH 1
REP3-062	The Ørsted IPs	Post-hearing submissions including written summaries of oral case at ISH 2
REP3-063	T.H. Clements & Son Limited	Comments on the Applicant's update to the draft DCO

REP3-064	Environment Agency	Comments on other submissions received at Deadline 2
REP3-065	T.H. Clements & Son Limited	Comments on other submissions received at Deadline 2 - comments on Applicant's responses to ExA Q1
REP3-066	Natural England	Cover Letter Deadline 3
REP3-067	Natural England	Appendix C2 Natural England's Potential Evidence Based Approach to Defining Supporting Habitats for Sabellaria spinulosa Reef v1.0
REP3-068	Natural England	Appendix C3 Impacts on Supporting Habitats and Processes for Annex 1 Sabellaria spinulosa reef within Inner Dowsing Race Bank and North Ridge (IDRBNR) Special Area of Conservation (SAC)
REP3-069	Natural England	Appendix E2 Natural England's comments and updated advice on Marine Mammals [REP2-036 and REP2-038]
REP3-070	Natural England	Appendix F2 Natural England's Advice on Offshore and Intertidal Ornithology following Acceptance of the Offshore Restricted Build Area (ORBA)
REP3-071	Natural England	Appendix G1 Natural England's Advice on Seabird Compensation Calculations
REP3-072	Natural England	Appendix H2 Natural England's Updated Advice on Onshore Ecology - Noise and Vibration Management Plan [REP2-032]
REP3-073	Natural England	Appendix I2 Natural England's comments on Onshore Ornithology
REP3-074	Natural England	Appendix J3 - Natural England's NE Risk and Issues Log Deadline 3
REP3-075	Natural England	Appendix L Natural England's comments on the Offshore In Principle Monitoring Plan [APP-276]
REP3-076	The Marine Management Organisation	Deadline 2 Submission – Summary
REP3-077	The Marine Management Organisation	Deadline 3 Submission
REP3-078	The Marine Management Organisation	Deadline 3 Submission – Summary

Deadline 4 – 3 February 2025

For receipt by the Examining Authority of:

- Responses to ExQ2 (if published)
- Comments on the Applicant's update to the draft DCO
- Comments on the Applicant's update to the Land Rights Tracker
- Applicant's update to the draft DCO
- Applicant's update to the Land Rights Tracker
- Applicant's update to the Guide to the Application
- Applicant's update to the Statements of Commonality of Statements of Common Ground
- Comments on any other submissions received at Deadline 3
- Updated report on the inter-relationship with other infrastructure projects (as described in Annex B)
- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

REP4-001	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	1.2 Guide to the Application
REP4-002	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.0 Schedule of Changes for Plans
REP4-003	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.5 Land Plans (Part 1 of 2)
REP4-004	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.5 Land Plans (Part 2 of 2)
REP4-005	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.18 Onshore Crossing Plan
REP4-006	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Clean)
REP4-007	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Tracked)
REP4-008	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Change Request) (Clean)
REP4-009	GT R4 Limited (trading as Outer	3.1 Draft Development Consent Order (Change Request) (Tracked)

	Dowsing Offshore Wind)	
REP4-010	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1.1 Schedule of Changes to the Draft Development Consent Order
REP4-011	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Clean)
REP4-012	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Tracked)
REP4-013	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1 Book of Reference (Clean)
REP4-014	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1 Book of Reference (Tracked)
REP4-015	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1.1 Schedule of Changes to the Book of Reference
REP4-016	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.3 Statement of Reasons (Clean)
REP4-017	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.3 Statement of Reasons (Tracked)
REP4-018	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.6 Appendix 12.6 MRSea Modelling for Offshore Ornithology (Clean)
REP4-019	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.6 Appendix 12.6 MRSea Modelling for Offshore Ornithology (Tracked)
REP4-020	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.3.2 Appendix 3.2 Onshore Crossing Schedule (Clean)
REP4-021	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.3.2 Appendix 3.2 Onshore Crossing Schedule (Tracked)
REP4-022	GT R4 Limited (trading as Outer Dowsing Offshore	Late Submissions Accepted at the Discretion of the ExA - 6.3.24.2 Appendix 24.2 Flood Risk Assessment: Onshore EC and 400kV Cable

	Wind)	Corridor (Clean) (Part 1 of 2)
REP4-023	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.24.2 Appendix 24.2 Flood Risk Assessment: Onshore EC and 400kV Cable Corridor (Tracked) (Part 1 of 2)
REP4-024	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.24.2 Appendix 24.2 Flood Risk Assessment: Onshore EC and 400kV Cable Corridor (Clean) (Part 2 of 2)
REP4-025	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.24.2 Appendix 24.2 Flood Risk Assessment: Onshore EC and 400kV Cable Corridor (Tracked) (Part 2 of 2)
REP4-026	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.24.3 Appendix 24.3 Flood Risk Assessment: Onshore Substation (Tracked) (Part 2 of 2)
REP4-027	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.24.3 Appendix 24.3 Flood Risk Assessment: Onshore Substation (Clean) (Part 1 of 2)
REP4-028	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.24.3 Appendix 24.3 Flood Risk Assessment: Onshore Substation (Clean) (Part 2 of 2)
REP4-029	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.24.3 Appendix 24.3 Flood Risk Assessment: Onshore Substation (Tracked) (Part 1 of 2)
REP4-030	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 7.1 Habitat Regulations Assessment - Report to Inform Appropriate Assessment (Clean)
REP4-030a	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 7.1 Report to Inform Appropriate Assessment V3 (Clean) CONFIDENTIAL
REP4-031	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 7.1 Habitat Regulations Assessment - Report to Inform Appropriate Assessment (Tracked)
REP4-032	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 7.1 Habitat Regulations Assessment - Report to Inform Appropriate Assessment (Tracked) - CONFIDENTIAL
REP4-033	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1.1 Annex 1: Offshore and Intertidal Ornithology Apportioning (Clean)
REP4-034	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1.1 Annex 1 Offshore and Intertidal Ornithology Apportioning (Tracked)

REP4-035	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1.2 Annex 2 Ornithology Population Viability Analysis (Clean)
REP4-036	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1.2 Annex 2 Ornithology Population Viability Analysis (Tracked)
REP4-037	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.2 Habitat Regulation Assessment Screening Report (Clean)
REP4-038	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.2 Habitat Regulation Assessment Screening Report (Tracked)
REP4-039	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.3 Report to Inform Appropriate Assessment Appendix 1 Screening Matrices (Clean)
REP4-040	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.3 Report to Inform Appropriate Assessment Appendix 1 Screening Matrices (Tracked)
REP4-041	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.4 Report to Inform Appropriate Assessment Integrity Matrices (Clean)
REP4-042	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.4 Report to Inform Appropriate Assessment Integrity Matrices (Tracked)
REP4-043	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.5 Derogation Case (Clean)
REP4-044	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.5 Derogation Case (Tracked)
REP4-045	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6 Benthic Compensation Strategy (Clean)
REP4-046	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6 Benthic Compensation Strategy (Tracked)
REP4-047	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.1 Without Prejudice Sandbank Compensation Plan (Clean)
REP4-048	GT R4 Limited	7.6.1 Without Prejudice Sandbank Compensation

	(trading as Outer Dowsing Offshore Wind)	Plan (Tracked)
REP4-049	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.2 Without Prejudice Biogenic Reef Compensation Plan (Clean)
REP4-050	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.2 Without Prejudice Biogenic Reef Compensation Plan (Tracked)
REP4-051	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.3 Without Prejudice Benthic Compensation Evidence Base and Roadmap (Clean)
REP4-052	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.3 Without Prejudice Benthic Compensation Evidence Base and Roadmap (Tracked)
REP4-053	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7 Ornithology Compensation Strategy (Clean)
REP4-054	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7 Ornithology Compensation Strategy (Tracked)
REP4-055	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.1 Kittiwake Compensation Plan (Clean)
REP4-056	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.1 Kittiwake Compensation Plan (Tracked)
REP4-057	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.2 Without Prejudice Guillemot Compensation Plan (Clean)
REP4-058	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.2 Without Prejudice Guillemot Compensation Plan (Tracked)
REP4-059	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.3 Without Prejudice Razorbill Compensation Plan (Tracked)
REP4-060	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.3 Without Prejudice Razorbill Compensation Plan (Clean)
REP4-061	GT R4 Limited (trading as Outer	7.7.4 Offshore Artificial Nesting Structures Evidence Base and Roadmap (Clean)

	Dowsing Offshore Wind)	
REP4-062	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.4 Offshore Artificial Nesting Structures Evidence Base and Roadmap (Tracked)
REP4-063	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 7.7.5 Predator Control Evidence Base and Roadmap (Clean)
REP4-064	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 7.7.5 Predator Control Evidence Base and Roadmap (Tracked)
REP4-065	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.6 Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill (Clean)
REP4-066	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.6 Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill (Tracked)
REP4-067	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Clean)
REP4-068	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Tracked)
REP4-069	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Clean)
REP4-070	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Tracked)
REP4-071	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) (Clean)
REP4-072	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) (Tracked)
REP4-073	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.13 Schedule of Mitigation (Clean)
REP4-074	GT R4 Limited (trading as Outer Dowsing Offshore	8.13 Schedule of Mitigation (Tracked)

	Wind)	
REP4-075	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.18 Design Approach Document (Clean)
REP4-076	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.18 Design Approach Document (Tracked)
REP4-077	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.19 Design Principles Statement (Clean)
REP4-078	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.19 Design Principles Statement (Tracked)
REP4-079	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.21 Outline Scour Protection and Cable Protection Management Plan (Tracked)
REP4-080	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 8.21 Outline Scour Protection and Cable Protection Management Plan (Clean)
REP4-081	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.23 Outline ORCP Lighting Management Plan
REP4-082	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.5 Outline Cable Specification and Installation Plan (Clean)
REP4-083	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.5 Outline Cable Specification and Installation Plan (Tracked)
REP4-084	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities (Clean)
REP4-085	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities (Tracked)
REP4-086	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.7 In-Principle Southern North Sea Special Area of Conservation Site Integrity Plan (Clean)
REP4-087	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.7 In-Principle Southern North Sea Special Area of Conservation Site Integrity Plan (Tracked)

REP4-088	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.9 Outline Onshore Written Scheme Investigation for Archaeological Works (Clean)
REP4-089	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.9 Outline Onshore Written Scheme Investigation for Archaeological Works (Tracked)
REP4-090	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 9.1.1 Policy Compliance Document (Clean)
REP4-091	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 9.1.1 Policy Compliance Document (Tracked)
REP4-092	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.4 Compulsory Acquisition and Land Rights Tracker (Schedule of Negotiations & Powers Sought) (Clean)
REP4-093	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.4 Compulsory Acquisition and Land Rights Tracker (Schedule of Negotiations & Powers Sought) (Tracked)
REP4-094	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 15 .7 Landfall Noise Bund Hydraulic Modelling Report V3 including Appendix C Figures (Tracked) (Part 1 of 4)
REP4-095	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 15 .7 Landfall Noise Bund Hydraulic Modelling Report V3 including Appendix C Figures (Clean) (Part 1 of 4)
REP4-096	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 15.7 Noise Bund Hydraulic Modelling Report Appendix C Figures (Part 2 of 4)
REP4-097	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 15.7 Noise Bund Hydraulic Modelling Report Appendix C Figures (Part 3 of 4)
REP4-098	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 15.7 Noise Bund Hydraulic Modelling Report Appendix C Figures (Part 4 of 4)
REP4-099	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.12 Interim Population Consequences of Disturbance Modelling Report (Clean)
REP4-100	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.12 Interim Population Consequences of Disturbance Modelling Report (Tracked)
REP4-101	GT R4 Limited	15.18 Statement of Commonality of Statements of

	(trading as Outer Dowsing Offshore Wind)	Common Ground
REP4-102	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.6 Inter-relationship with other infrastructure projects (Clean)
REP4-103	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.6 Inter-relationship with other infrastructure projects (Tracked)
REP4-104	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.11 Lead-in periods for kittiwake breeding on Artificial Nesting Structures (Clean)
REP4-105	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.11 Lead-in periods for kittiwake breeding on Artificial Nesting Structures (Tracked)
REP4-106	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.1 The Applicant's Deadline 4 Covering Letter
REP4-107	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.2 The Applicant's Responses to The ExA's Second Written Questions
REP4-108	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.3 The Applicant's Comments on Deadline 3 Submissions
REP4-109	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.4 The Applicant's Response to Written Summaries of Oral Cases at ISH1
REP4-110	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.5 The Applicant's Response to Written Summaries of Oral Cases at ISH2
REP4-111	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.6 The Applicant's Response to Written Summaries of Oral Cases at ISH3
REP4-112	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.7 The Applicant's Response to Written Summaries of Oral Cases at CAH1
REP4-113	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.8 The Applicant's Comments on Natural England's Risk and Issues Log
REP4-114	GT R4 Limited (trading as Outer	21.9 Wake Loss Technical Note

	Dowsing Offshore Wind)	
REP4-115	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.10 Archaeological Trial Trenching Interim Report Figure 1
REP4-116	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.11 Archaeological Deposit Modelling Interim Report
REP4-117	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.12 BMV Quantitative Cumulative Assessment
REP4-118	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.13 Environmental Report for the Changes to Proposed Public Right of Way Temporary Diversion of Crof/276/2, Crof/276/3 and Crof/276/4
REP4-119	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.14 Shell Protective Provisions Plan
REP4-120	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.15 Perenco Protective Provisions Plan
REP4-121	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.16 ORCP Design Principles Statement
REP4-122	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.17 The Oyster Restoration Company Letter of Comfort
REP4-123	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.18 The Applicant's Change Notification
REP4-124	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.19 The Applicant's Change Request
REP4-125	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.20 The Applicant's Response to T.H. Clements' Dust Report, Assessment and Conclusions
REP4-126	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.21 NGET Protective Provisions Plan
REP4-127	Environment Agency	Cover Letter
REP4-128	Environment Agency	Responses to ExQ2

REP4-129	Marine Management Organisation	Deadline 4 Submission
REP4-130	Marine Management Organisation	Deadline 4 Submission – Summary
REP4-131	Ministry of Defence	Responses to ExQ2
REP4-132	East Lindsey DC, South Holland DC and Boston BC	Responses to ExQ2
REP4-133	Lincolnshire County Council	Responses to ExQ2
REP4-134	Historic England	Deadline 4 submission
REP4-135	Natural England	Cover Letter
REP4-136	Natural England	Appendix B2 to the Natural England Deadline 4 Submission
REP4-137	Natural England	Appendix C4 to the Natural England Deadline 4 Submission
REP4-138	Natural England	Appendix C5 to the Natural England Deadline 4 Submission
REP4-139	Natural England	Appendix F3 to the Natural England Deadline 4 Submission
REP4-140	Natural England	Appendix G2 to the Natural England Deadline 4 Submission
REP4-141	Natural England	Appendix H4 to the Natural England Deadline 4 Submission
REP4-142	Natural England	Appendix H5 to the Natural England Deadline 4 Submission
REP4-143	Natural England	Appendix K2 to the Natural England Deadline 4 Submission
REP4-144	Natural England	Risk and Issues Log
REP4-145	Lincolnshire Wildlife Trust	Deadline 4 Submission
REP4-146	The Royal Society for the Protection of Birds	Responses to ExQ2
REP4-147	CalEnergy North Sea Limited	Representations by CalEnergy North Sea Limited
REP4-148	Perenco UK Limited	Perenco Protective Provisions
REP4-149	The Ørsted IPs	Responses to ExQ2
REP4-150	T.H. Clements & Son Limited	Responses to ExQ2, comments on the Applicants update to the draft DCO and comments on deadline 3 submissions
REP4-151	Woodlands Farm (Kirton) Limited and Andrew Peter Dennis	Responses to ExQ2
REP4-152	GT R4 Limited (trading as Outer Dowsing Offshore Wind	Late submissions for Deadline 4 accepted at the discretion of the ExA - 21.10 Archaeological Interim Report Trial Trenching
REP4-153	GT R4 Limited (trading as Outer Dowsing Offshore Wind	Late submissions for Deadline 4 accepted at the discretion of the ExA - 21.10 Archaeological Interim Report Trial Trenching Figure 2

Deadline for receipt by the ExA of:

- Post-hearing submissions including written summaries of oral case put at hearings during w/c 10 February 2025
- Comments on the Applicant's latest update to the draft DCO [REP-008]
- Comments on the Applicant's latest update to the Land Rights Tracker [REP4-092]
- Comments on any other submissions received at Deadline 4

REP4a-001	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.0 Schedule of Changes for Plans
REP4a-002	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.1 Works Plan Onshore
REP4a-003	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.2 Offshore Works Plans
REP4a-004	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.10 Public Rights of Way Plan
REP4a-005	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.18 Onshore Crossing Plan
REP4a-006	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Clean)
REP4a-007	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Tracked)
REP4a-008	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1.1 Schedule of Changes to the Draft Development Consent Order
REP4a-009	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Clean)
REP4a-010	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Tracked)
REP4a-011	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.12 Chapter 12 Offshore and Intertidal Ornithology (Clean)
REP4a-012	GT R4 Limited (trading as Outer Dowsing Offshore)	6.1.12 Chapter 12 Offshore and Intertidal Ornithology (Tracked)

	Wind)	
REP4a-013	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.19 Chapter 19 Onshore Air Quality (Clean)
REP4a-014	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.19 Chapter 19 Onshore Air Quality (Tracked)
REP4a-015	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.23 Chapter 23 Geology and Ground Conditions (Clean)
REP4a-016	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.23 Chapter 23 Geology and Ground Conditions (Tracked)
REP4a-017	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.24 Chapter 24 Onshore Hydrology, Hydrogeology and Flood Risk (Clean)
REP4a-018	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.24 Chapter 24 Onshore Hydrology, Hydrogeology and Flood Risk (Tracked)
REP4a-019	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.25 Chapter 25 Land Use (Clean)
REP4a-020	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.25 Chapter 25 Land Use (Tracked)
REP4a-021	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.26 Chapter 26 Onshore Noise and Vibration (Clean)
REP4a-022	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.26 Chapter 26 Onshore Noise and Vibration (Tracked)
REP4a-023	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.27 Chapter 27 Onshore Traffic and Transport (Clean)
REP4a-024	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.27 Chapter 27 Onshore Traffic and Transport (Tracked)
REP4a-025	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.28 Landscape and Visual Assessment (Clean)
REP4a-026	GT R4 Limited (trading as Outer Dowsing Offshore	6.1.28 Landscape and Visual Assessment (Tracked)

	Wind)	
REP4a-027	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.29 Chapter 29 Socio-Economic Characteristics (Clean)
REP4a-028	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.29 Chapter 29 Socio-Economic Characteristics (Tracked)
REP4a-029	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.7 Chapter 7 Marine Physical Processes
REP4a-030	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.12 Chapter 12 Offshore and Intertidal Ornithology
REP4a-031	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.19 Chapter 19 Onshore Air Quality Figures
REP4a-032	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.23 Chapter 23 Onshore Geology and Ground Conditions Figures
REP4a-033	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.24 Chapter 24 Onshore Hydrology and Flood Risk Figures
REP4a-034	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.25 Chapter 25 Land Use Figures
REP4a-035	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.26 Chapter 26 Noise and Vibration Figures
REP4a-036	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.27 Chapter 27 Traffic and Transport Figures
REP4a-037	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.28 Chapter 28 Landscape and Visual Assessment Figures Part 1 of 15
REP4a-038	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.28 Chapter 28 Landscape and Visual Assessment Figures Part 2 of 15
REP4a-039	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.28 Chapter 28 Landscape and Visual Assessment Figures Part 3 of 15
REP4a-040	GT R4 Limited (trading as Outer Dowsing Offshore	6.2.29 Chapter 29 Socio-Economic Characteristics

	Wind)	
REP4a-041	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.7 Chapter 7 Marine Physical Processes Part 1 of 2
REP4a-042	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.7 Chapter 7 Marine Physical Processes Part 2 of 2
REP4a-043	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.1 Appendix 12.1 Offshore and Intertidal Ornithology Baseline Characterisation Report
REP4a-044	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.2 Appendix 12.2 Collision Risk Modelling
REP4a-045	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.3 Appendix 12.3 Ornithology Displacement Assessment
REP4a-046	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.4 Appendix 12.4 Offshore Ornithology Population Viability Assessment
REP4a-047	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.5 Appendix 12.5 Migratory Collision Risk Modelling Annex
REP4a-048	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.7 Appendix 12.7 Levels of precaution in the assessment and compensation calculations for offshore ornithology (Clean)
REP4a-049	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.7 Appendix 12.7 Levels of precaution in the assessment and compensation calculations for offshore ornithology (Tracked)
REP4a-050	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.8 Consideration of bioseasons in the assessment of guillemot (Clean)
REP4a-051	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.8 Consideration of bioseasons in the assessment of guillemot (Tracked)
REP4a-052	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.9 Rates of displacement in guillemot and razorbill (Clean)
REP4a-053	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.12.9 Rates of displacement in guillemot and razorbill (Tracked)
REP4a-054	GT R4 Limited (trading as Outer Dowsing Offshore	6.3.19.4 Appendix 19.4 Road Traffic Dispersion Modelling (Clean)

	Wind)	
REP4a-055	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.19.4 Appendix 19.4 Road Traffic Dispersion Modelling (Tracked)
REP4a-056	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.23.1 Preliminary Land Quality Risk Assessment (Clean)
REP4a-057	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.23.1 Preliminary Land Quality Risk Assessment (Tracked)
REP4a-058	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.24.1 Groundwater Risk Assessment (Clean)
REP4a-059	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.24.1 Groundwater Risk Assessment (Tracked)
REP4a-060	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.25.1 Appendix 25.1 BMV Regional and National Context
REP4a-061	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.26.4 Appendix 26.4 Noise Model Outputs (Clean)
REP4a-062	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.26.4 Appendix 26.4 Noise Model Outputs (Tracked)
REP4a-063	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.27.1 Appendix 27.1 Transport Assessment (Clean)
REP4a-064	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.27.1 Appendix 27.1 Transport Assessment (Tracked)
REP4a-065	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.27.1.1 Appendix 27.1 Annex I Public Rights of Way
REP4a-066	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.27.1.A Appendix 27.1 Annex A Special Order AIL Swept Path Analysis
REP4a-067	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.3.2 Onshore Crossing Schedule (Clean)
REP4a-068	GT R4 Limited (trading as Outer Dowsing Offshore	6.3.3.2 Onshore Crossing Schedule (Tracked)

	Wind)	
REP4a-069	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.9.2 Benthic and Intertidal Ecology Benthic and Intertidal Ecology
REP4a-070	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.9.6 Offshore Export Cable Corridor Sabellaria Spinulosa Reanalysis and Report
REP4a-071	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.6 Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill (Clean)
REP4a-072	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.6 Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill (Tracked)
REP4a-073	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.03 Offshore In-Principle Monitoring Plan (Clean)
REP4a-074	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.03 Offshore In-Principle Monitoring Plan (Tracked)
REP4a-075	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Clean)
REP4a-076	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Tracked)
REP4a-077	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.2 Outline Air Quality Management Plan (Clean)
REP4a-078	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.2 Outline Air Quality Management Plan (Tracked)
REP4a-079	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Clean)
REP4a-080	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Tracked)
REP4a-081	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.7 Outline Organic Land Protocol (Clean)
REP4a-082	GT R4 Limited (trading as Outer Dowsing Offshore	8.1.7 Outline Organic Land Protocol (Tracked)

	Wind)	
REP4a-083	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (Clean)
REP4a-084	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (Tracked)
REP4a-085	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy CONFIDENTIAL (Clean)
REP4a-086	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy CONFIDENTIAL (Tracked)
REP4a-087	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.13 Schedule of Mitigation
REP4a-088	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.15 Outline Construction Traffic Management Plan (Clean)
REP4a-089	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.15 Outline Construction Traffic Management Plan (Tracked)
REP4a-090	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.17 Outline Public Access Management Plan (Clean)
REP4a-091	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.17 Outline Public Access Management Plan (Tracked)
REP4a-092	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.2 Outline Offshore Operations and Maintenance Plan (Clean)
REP4a-093	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.2 Outline Offshore Operations and Maintenance Plan (Tracked)
REP4a-094	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.4 Outline Project Environmental Management Plan (Clean)
REP4a-095	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.4 Outline Project Environmental Management Plan (Tracked)
REP4a-096	GT R4 Limited (trading as Outer Dowsing Offshore	8.5 Outline Cable Specification and Installation Plan (Clean)

	Wind)	
REP4a-097	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.5 Outline Cable Specification and Installation Plan (Tracked)
REP4a-098	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities (Clean)
REP4a-099	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities (Tracked)
REP4a-100	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.2 Outline Marine Mammal Mitigation Protocol for Unexploded Ordnance (Clean)
REP4a-101	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.2 Outline Marine Mammal Mitigation Protocol for Unexploded Ordnance (Tracked)
REP4a-102	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.20 Outline Vessel Management Plan (Clean)
REP4a-103	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.20 Outline Vessel Management Plan (Tracked)
REP4a-104	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.21 Outline Scour Protection and Cable Protection Management Plan (Clean)
REP4a-105	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.21 Outline Scour Protection and Cable Protection Management Plan (Tracked)
REP4a-106	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.12 Interim Population Consequences of Disturbance Modelling Report (Clean)
REP4a-107	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.12 Interim Population Consequences of Disturbance Modelling Report (Tracked)
REP4a-108	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.17 Guillemot and Razorbill Compensation Quanta (Clean)
REP4a-109	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.17 Guillemot and Razorbill Compensation Quanta (Tracked)
REP4a-110	GT R4 Limited (trading as Outer Dowsing Offshore	21.2 The Applicant's Responses to The ExA's Second Written Questions

	Wind)	
REP4a-111	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.8 The Applicant's Comments on Natural England's Risk and Issues Log
REP4a-112	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.16 ORCP Design Principles Statement (Clean)
REP4a-113	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.16 ORCP Design Principles Statement (Tracked)
REP4a-114	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.2 The Applicant's Comments on Responses to The ExA's Second Written Questions
REP4a-115	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.3 The Applicant's Comments on Deadline 4 Submissions
REP4a-116	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.4 The Applicant's Written Summary of Oral Case put at the Issue Specific Hearing 5 held on 12 February 2025
REP4a-117	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.5 The Applicant's Written Summary of Oral Case Put at the Issue Specific Hearing 6 held on 13 February 2025
REP4a-118	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.7 Clarification Note Use of 'best endeavours' in the context of Policy Paper Reducing Marine Noise
REP4a-119	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.8 The Applicant's Wake Loss Methodology Clarification Note
REP4a-120	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.9 The Applicant's Response to Actions Points recorded at ISH5 and ISH6
REP4a-121	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.10 The Applicant's Position on Natural England's Engagement in the Outer Dowsing Offshore Wind Examination
REP4a-122	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.11 Sabellaria spinulosa reef supporting habitat Technical Note
REP4a-123	Environment Agency	Post-hearing submissions including written summaries of oral case put at hearings during w/c 10 February 2025
REP4a-124	Lincolnshire County Council	Post-hearing submissions including written summaries of oral case put at hearings during w/c 10 February 2026
REP4a-125	Orsted IPs	Post-hearing submissions including written

		summaries of oral case put at hearings during w/c 10 February 2027
REP4A-125a	Orsted IPs	Comments on any other submissions received at Deadline 4
REP4a-126	Dudgeon Offshore Wind Limited	Comments on any other submissions received at Deadline 4
REP4a-127	Environment Agency	Comments on any other submissions received at Deadline 4
REP4a-128	Equinor New Energy Limited	Comments on any other submissions received at Deadline 4
REP4a-129	Equinor New Energy Limited	Comments on any other submissions received at Deadline 4
REP4a-130	Natural England	Comments on any other submissions received at Deadline 4
REP4a-131	Scira Offshore Energy Limited	Comments on any other submissions received at Deadline 4
REP4a-132	The Marine Management Organisation	Comments on any other submissions received at Deadline 4 summary
REP4a-133	The Marine Management Organisation	Comments on any other submissions received at Deadline 4
REP4a-134	Woodlands Farm (Kirtton) Limited and Andrew Peter Dennis	Comments on any other submissions received at Deadline 4
REP4a-135	Lincolnshire County Council	Post-hearing submissions response to action points
REP4a-136	Natural England	Comments on any other submissions received at Deadline 4 - Appendix D1 Natural England's Advice on Benthic Compensation and Mitigation
REP4a-137	Natural England	Comments on any other submissions received at Deadline 4 - Appendix F4 Natural England's Advice on Offshore and Intertidal Ornithology Apportioning [REP4-033] and the Red-Throated Diver Feature of the Greater Wash SPA within the Report to Inform the Appropriate Assessment [REP4-030]
REP4a-138	Natural England	Comments on any other submissions received at Deadline 4 - Cover letter
REP4a-139	South Holland DC, Boston BC and East Lindsey DC	Post-hearing submissions response to action points
REP4a-140	T.H. Clements & Son Limited	Comments on any other submissions received at Deadline 4, Post-hearing submissions including written summaries of oral case put at hearings during w/c 10 February 2025, comments on the Applicant's latest update to the draft DCO and comments on the Applicant's latest update to the Land Rights Tracker
REP4a-141	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 1.2 Guide to the Application
REP4a-142	GT R4 Limited (trading as Outer Dowsing Offshore	Late Submissions Accepted at the Discretion of the ExA - 6.1.7 Chapter 7 Marine Physical Processes

	Wind)	
REP4a-143	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.2.19 Chapter 19 Air Quality Figures
REP4a-144	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 8.13 Schedule of Mitigation (Tracked)
REP4a-145	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 22.1 The Applicant's Deadline 4a Covering Letter
REP4a-146	Natural England	Late Submissions Accepted at the Discretion of the ExA - Appendix H6 - Natural England's Advice on Onshore Ecology - Species Licensing Deadline 4a
REP4a-147	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.12.2 Chapter 12 Appendix 2 Collision Risk Modelling (Tracked)
REP4a-148	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.12.3 Chapter 12 Appendix 3 Displacement Assessment (Tracked)
REP4a-149	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.12.4 Chapter 12 Appendix 4 Population Viability Analysis (Tracked)
REP4a-150	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.3.12.5 Chapter 12 Appendix 5 Migratory Collision Risk Modelling (Tracked)
REP4a-151	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Late Submissions Accepted at the Discretion of the ExA - 6.1.7 Chapter 7 Marine Physical Processes V2 (Tracked)

Deadline 5 - 13 March 2025

Deadline for receipt by the ExA of:

- Comments on the Report into the Implications for European Sites (RIES) (if required)
- Comments on ExA's commentary on, or schedule of changes to, the draft DCO (if required)
- Completed, signed and dated Statements of Common Ground
- Final Statement of Commonality of Statements of Common Ground
- Comments on any other submissions received at Deadline 4a
- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

REP5-001	GT R4 Limited (trading as Outer Dowsing Offshore	1. 2 Deadline 5 Guide to the Application

	Wind)	
REP5-002	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Clean)
REP5-003	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Tracked)
REP5-004	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1.1 Schedule of Changes to the Draft Development Consent Order
REP5-005	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Clean)
REP5-006	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Tracked)
REP5-007	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1 Environmental Statement Non-Technical Summary (Clean)
REP5-008	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1 Environmental Statement Non-Technical Summary (Tracked)
REP5-009	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.3 Chapter 3 Project Description (Clean)
REP5-010	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.3 Chapter 3 Project Description (Tracked)
REP5-011	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.31 Chapter 31 Climate Change (Clean)
REP5-012	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.31 Chapter 31 Climate Change (Tracked)
REP5-013	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.4 Chapter 4 Site Selection and Consideration of Alternatives (Clean)
REP5-014	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.4 Chapter 4 Site Selection and Consideration of Alternatives (Tracked)

REP5-015	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.5 Environmental Impact Assessment Methodology (Clean)
REP5-016	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.5 Environmental Impact Assessment Methodology (Tracked)
REP5-017	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.8 Chapter 8 Marine Water and Sediment Quality V3 (Clean)
REP5-018	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.8 Chapter 8 Marine Water and Sediment Quality V3 (Tracked)
REP5-019	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.9 Chapter 9 Benthic and Intertidal Ecology V2 (Clean)
REP5-020	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.9 Chapter 9 Benthic and Intertidal Ecology V2 (Tracked)
REP5-021	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.10 Chapter 10 Fish and Shellfish Ecology V2 (Clean)
REP5-022	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.10 Chapter 10 Fish and Shellfish Ecology V3 (Tracked)
REP5-023	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.11 Chapter 11 Marine Mammals V2 (Clean)
REP5-024	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.11 Chapter 11 Marine Mammals V2 (Tracked)
REP5-025	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.13 Chapter 13 Marine and Intertidal Archaeology V2 (Clean)
REP5-026	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.13 Chapter 13 Marine and Intertidal Archaeology V2 (Tracked)
REP5-027	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.14 Chapter 14 Commercial Fisheries (Clean)
REP5-028	GT R4 Limited	6.1.14 Chapter 14 Commercial Fisheries

	(trading as Outer Dowsing Offshore Wind)	(Tracked)
REP5-029	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.15 Chapter 15 Shipping and Navigation (Clean)
REP5-030	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.15 Chapter 15 Shipping and Navigation (Tracked)
REP5-031	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.16 Chapter 16 Aviation, Radar, Military and Communication (Clean)
REP5-032	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.16 Chapter 16 Aviation, Radar, Military and Communication (Tracked)
REP5-033	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.17 Chapter 17 Seascape, Landscape and Visual Impact Assessment (Clean)
REP5-034	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.17 Chapter 17 Seascape, Landscape and Visual Impact Assessment (Tracked)
REP5-035	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.18 Chapter 18 Infrastructure and Other Marine Users (Clean)
REP5-036	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.18 Chapter 18 Infrastructure and Other Marine Users (Tracked)
REP5-037	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.20 Chapter 20 Onshore Archaeology and Cultural Heritage (Clean)
REP5-038	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.20 Chapter 20 Onshore Archaeology and Cultural Heritage (Tracked)
REP5-039	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.21 Chapter 21 Onshore Ecology (Clean)
REP5-040	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.21 Chapter 21 Onshore Ecology (Tracked)
REP5-041	GT R4 Limited (trading as Outer	6.1.22 Chapter 22 Onshore Ornithology (Clean)

	Dowsing Offshore Wind)	
REP5-042	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.22 Chapter 22 Onshore Ornithology (Tracked)
REP5-043	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.22 Chapter 22 Onshore Ornithology Confidential (Clean)
REP5-044	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.22 Chapter 22 Onshore Ornithology Confidential (Tracked)
REP5-045	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.3 Chapter 1.3 Project Description Volume 2 Figures
REP5-046	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.4 Chapter 1.4 Site Selection and Consideration of Alternatives Volume 2 Figures
REP5-047	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.5 Chapter 1.5 EIA Methodology Volume 2 Figures
REP5-048	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.8 Chapter 8 Marine Water and Sediment Quality Figures V3
REP5-049	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.9 Chapter 9 Benthic and Intertidal Ecology Figures V2
REP5-050	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.10 Chapter 10 Fish and Shellfish Ecology Figures V2 Part 1 of 2
REP5-051	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.10 Chapter 10 Fish and Shellfish Ecology Figures V2 Part 2 of 2
REP5-052	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.11 Chapter 11 Marine Mammals Figures V2
REP5-053	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.13 Chapter 13 Marine and Intertidal Archaeology Figures V2
REP5-054	GT R4 Limited (trading as Outer Dowsing Offshore	6.2.14 Chapter 14 Commercial Fisheries Volume 2 Figures

	Wind)	
REP5-055	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.15 Chapter 15 Shipping and Navigation Volume 2 Figures
REP5-056	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.16 Chapter 16 Aviation, Radar, Military and Communication Volume 2 Figures
REP5-057	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.17 Chapter 17 Seascape, Landscape and Visual Volume 2 Figures Part 1 of 3
REP5-058	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.17 Chapter 17 Seascape, Landscape and Visual Volume 2 Figures Part 2 of 3
REP5-059	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.17 Chapter 17 Seascape, Landscape and Visual Volume 2 Figures Part 3 of 3
REP5-060	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.18 Chapter 18 Marine Infrastructure and Other Users Volume 2 Figures
REP5-061	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.21 Chapter 21 Onshore Ecology Figures (Part 1 of 2)
REP5-062	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.21 Chapter 21 Onshore Ecology Figures (Part 2 of 2)
REP5-063	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.2.22 Chapter 22 Onshore Ornithology Figures
REP5-064	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.5.2 Offshore Cumulative Effects Assessment Methodology (Clean)
REP5-065	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.5.2 Offshore Cumulative Effects Assessment Methodology (Tracked)
REP5-066	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.5.3 Onshore Cumulative Effects Assessment Approach (Clean)
REP5-067	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.5.3 Onshore Cumulative Effects Assessment Approach (Tracked)

REP5-068	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.10.1 Chapter 10 Appendix 1 Fish and Shellfish Ecology Technical Baseline V2 Clean)
REP5-069	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.10.1 Chapter 10 Appendix 1 Fish and Shellfish Ecology Technical Baseline V2 (Tracked)
REP5-070	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.11.2 Chapter 11 Appendix 2 Underwater Noise Assessment V2 (Clean)
REP5-071	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.11.2 Chapter 11 Appendix 2 Underwater Noise Assessment V2 (Tracked)
REP5-072	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.15.1 Chapter 15 Appendix 1 Navigational Risk Assessment V2 (Clean)
REP5-073	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.15.1 Chapter 15 Appendix 1 Navigational Risk Assessment V2 (Tracked)
REP5-074	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.15.1 Appendix 15.1 Navigational Risk Assessment Volume 3 Appendices
REP5-075	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.18.2 Appendix 18.2 Helicopter Access Report – Hornsea One and Two RCS Volume 3 Appendices
REP5-076	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 1 (Clean)
REP5-077	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 1 (Tracked)
REP5-078	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 10 Annex 20 Archaeological Trial Trenching Interim Report
REP5-079	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 2a DBA Figures Suite 1
REP5-080	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 2b DBA Figures Suite 2
REP5-081	GT R4 Limited	6.3.20.1 Appendix 20.1 Onshore Archaeology and

	(trading as Outer Dowsing Offshore Wind)	Cultural Heritage Desk-Based Assessment Part 3 Annexes 1-16
REP5-082	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 4 Annex 17 (Clean)
REP5-083	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 4 Annex 17 (Tracked)
REP5-084	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 5 Annex 18
REP5-085	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 6 Annex 19
REP5-086	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 7 Annex 19 Figures Suite 1
REP5-087	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 8 Annex 19 Figures Suite 2
REP5-088	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.20.1 Appendix 20.1 Onshore Archaeology and Cultural Heritage Desk-Based Assessment Part 9 Annex 20 Archaeological Trial Trenching Interim Report
REP5-089	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.22.2 Ornithology Desk Study Annex Confidential (Clean)
REP5-090	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.22.2 Ornithology Desk Study Annex Confidential (Tracked)
REP5-091	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.22.3 Appendix 22.3 Winter Bird Survey 2022-2023 Part 1 of 4 (Clean)
REP5-092	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.22.3 Appendix 22.3 Winter Bird Survey 2022-2023 Part 1 of 4 (Tracked)
REP5-093	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.22.3 Appendix 22.3 Winter Bird Survey 2022-2023 Part 2 of 4
REP5-094	GT R4 Limited (trading as Outer	6.3.22.3 Appendix 22.3 Winter Bird Survey 2022-2023 Part 3 of 4

	Dowsing Offshore Wind)	
REP5-095	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.22.3 Appendix 22.3 Winter Bird Survey 2022-2023 Part 4 of 4
REP5-096	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.22.7 Appendix 22.7 Addendum Winter Bird Survey 2023/24
REP5-097	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.22.8 Appendix 22.8 Additional Clarifications Relating to Natural England's Relevant Representations (Appendix I Onshore Ornithology)
REP5-098	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.25.1 Appendix 21.5 Badger Desk Study and Field Survey Confidential (Clean)
REP5-099	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.25.1 Appendix 21.5 Badger Desk Study and Field Survey Confidential (Tracked)
REP5-100	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.31.1 Carbon payback sensitivity analysis wake effects
REP5-101	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1 Report to Inform Appropriate Assessment (Clean)
REP5-102	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1 Report to Inform Appropriate Assessment (Tracked)
REP5-103	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1 Report to Inform Appropriate Assessment Confidential (Clean)
REP5-104	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1 Report to Inform Appropriate Assessment Confidential (Tracked)
REP5-105	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.1 Without Prejudice Sandbank Compensation Plan (Clean)
REP5-106	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.1 Without Prejudice Sandbank Compensation Plan (Tracked)
REP5-107	GT R4 Limited (trading as Outer Dowsing Offshore	7.6.2 Without Prejudice Biogenic Reef Compensation Plan (Clean)

	Wind)	
REP5-108	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.2 Without Prejudice Biogenic Reef Compensation Plan (Tracked)
REP5-109	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.3 Without Prejudice Benthic Compensation Evidence Base and Roadmap (Clean)
REP5-110	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.3 Without Prejudice Benthic Compensation Evidence Base and Roadmap (Tracked)
REP5-111	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.6 Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill (Clean)
REP5-112	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.6 Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill (Tracked)
REP5-113	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Clean)
REP5-114	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Tracked)
REP5-115	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Clean)
REP5-116	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Tracked)
REP5-117	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.5 Outline Cable Specification and Installation Plan (Clean)
REP5-118	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.5 Outline Cable Specification and Installation Plan (Tracked)
REP5-119	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape Ecological Management Strategy V7 (Clean)
REP5-120	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape Ecological Management Strategy V7 (Tracked)

REP5-121	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape Ecological Management Strategy V7 Confidential (Clean)
REP5-122	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape Ecological Management Strategy V7 Confidential (Tracked)
REP5-123	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.13 Schedule of Mitigation (Clean)
REP5-124	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.13 Schedule of Mitigation (Tracked)
REP5-125	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.18 Design Approach Document (Clean)
REP5-126	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.18 Design Approach Document (Tracked)
REP5-127	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.19 Design Principles Statement (Clean)
REP5-128	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.19 Design Principles Statement (Tracked)
REP5-129	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.21 Outline Scour Protection and Cable Protection Management Plan (Clean)
REP5-130	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.21 Outline Scour Protection and Cable Protection Management Plan (Tracked)
REP5-131	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.18 Statement of Commonality of Statements of Common Ground
REP5-132	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.7 Statement of Common Ground with Anglian Water Services (AWS)
REP5-133	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.8 Statement of Common Ground with the Environment Agency
REP5-134	GT R4 Limited	18.9 Statement of Common Ground with Historic

	(trading as Outer Dowsing Offshore Wind)	England
REP5-135	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.10 Statement of Common Ground with Lincolnshire County Council
REP5-136	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.11 Statement of Common Ground with Boston Borough Council, East Lindsey District Council, South Holland District Council
REP5-137	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.12 Statement of Common Ground with Maritime and Coastguard Agency
REP5-138	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.16 Statement of Common Ground with Chamber of Shipping
REP5-139	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.19 Statement of Common Ground with the Royal Society for the Protection of Birds (RSPB)
REP5-140	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.20 Statement of Common Ground with Trinity House
REP5-141	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.6 Inter-relationship with other infrastructure projects (Clean)
REP5-142		NOT IN USE
REP5-143	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.17 Guillemot and Razorbill Compensation Quanta (Clean)
REP5-144	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.17 Guillemot and Razorbill Compensation Quanta (Tracked)
REP5-145	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.11 Sabellaria spinulosa Reef Supporting Habitat Technical Note (Clean)
REP5-146	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.11 Sabellaria spinulosa Reef Supporting Habitat Technical Note (Tracked)
REP5-147	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	23.1 The Applicant's Deadline 5 Covering Letter
REP5-148	GT R4 Limited	23.2 - The Applicant's Comments on The

	(trading as Outer Dowsing Offshore Wind)	Examining Authority's schedule of proposed changes to the draft Development Consent Order
REP5-149	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	23.3 The Applicant's Response to the Report on the Implications for European Sites (RIES)
REP5-150	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	23.4 The Applicant's Comments on Deadline 4a Submissions
REP5-151	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	23.5 Clarification Note Marine Access and Allision Information Regarding the Hornsea Projects
REP5-152	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	23.6 Wood Thilsted Wake Impact Assessment Report
REP5-153	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	23.7 Madsen and Searle Papers (Further Commentary)
REP5-154	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	Response to NATS withdrawal of its Relevant Representations
REP5-155	Anglian Water Services	Completed, signed and dated Statements of Common Ground
REP5-156	Environment Agency	Comments on any other submissions received at Deadline 4a
REP5-157	Equinor New Energy Limited on behalf of Equinor IPs	Comments on any other submissions received at Deadline 4a
REP5-158	Lincolnshire County Council	Comments on any other submissions received at Deadline 4a
REP5-159	Perenco	Explanatory Note - Comments on ExA's commentary on, or schedule of changes to, the draft DCO
REP5-160	The Royal Society for the Protection of Birds	Comments on the Report into the Implications for European Sites (RIES)
REP5-161	Natural England	Comments on any other submissions received at Deadline 4a - Deadline 5 Response
REP5-162	Natural England	Comments on any other submissions received at Deadline 4a - Appendix A - Comments on the dDCO and DML
REP5-163	Natural England	Comments on any other submissions received at Deadline 4a - Appendix B3 Advice on the applicant's submissions on marine processes Comments on any other submissions received at
REP5-164	Natural England	Deadline 4a - Appendix C6 - Comments on

		Benthic Ecology
REP5-165	Natural England	Comments on any other submissions received at Deadline 4a - Appendix E3 - Comments on Marine Mammals
REP5-166	Natural England	Comments on any other submissions received at Deadline 4a - Appendix F5 Advice on Offshore and Intertidal Ornithology
REP5-167	Natural England	Comments on any other submissions received at Deadline 4a - Appendix G3 - Updated advice on seabird compensation calculations
REP5-168	Natural England	Comments on any other submissions received at Deadline 4a - Appendix H7 - Comments on Onshore Ecology
REP5-169	Natural England	Comments on any other submissions received at Deadline 4a 8 - Appendix H8 - Final advice on soils
REP5-170	Natural England	Comments on any other submissions received at Deadline 4a - Appendix I3 - Further advice on the applicant's onshore ornithology submissions at Deadline 4 and 4a
REP5-171	Natural England	Appendix J5 - NE Risk and Issues Log Deadline 5
REP5-172	Natural England	Comments on the Report into the Implications for European Sites (RIES) - Appendix K3 to Deadline 5 Submission
REP5-173	T.H. Clements & Son Limited	Comments on any other submissions received at Deadline 4a and the ExA's schedule of changes to the dDCO
REP5-174	The Marine Management Organisation	Comments on any other submissions received at Deadline 4a and the ExA's schedule of changes to the dDCO
REP5-175	The Marine Management Organisation	Summary of Comments on any other submissions received at Deadline 4a and the ExA's schedule of changes to the dDCO
REP5-176	The Ørsted IPs	Comments on any other submissions received at Deadline 4a
REP5-177	Ministry of Defence	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules
REP5-178	NATS	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

Deadline 6 - 4 April 2025

Deadline for receipt by the ExA of:

- Post-hearing submissions including written summaries of oral case put at hearings during w/c 18 March 2025 (if held)
- Final Principal Areas of Disagreement Statements
- IP's Closing Statement(s)
- Post-hearing submissions including written submissions of oral cases (if applicable)
- Applicant's Closing Statement(s)
- Applicant's Close of Examination Progress Tracker
- Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report
- Final Explanatory Memorandum in clean and tracked versions
- Final Book of Reference (BoR) and schedule of changes to BoR
- Applicant's final Schedule of Negotiations and Powers Sought in clean and tracked versions
- Completed s106 Agreements (if required)
- Final Land Rights Tracker
- Final planning obligations and commercial side agreements tracker
- Final Guide to the Application
- Final schedule of changes to the draft DCO (if required)
- Comments on any other submissions received at Deadline 5
- Final report on the inter-relationship with other infrastructure projects (as described in Annex B)
- Final preferred drafting of protective provisions, if not fully agreed between the applicant and respective parties before Deadline 6
- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

REP6-001	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.1 Covering Letter
REP6-002	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	1.2 Guide to the Application V11 - Late Submission accepted at the discretion of the Examining Authority
REP6-003	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.0 Schedule of Changes for Plans
REP6-004	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.5 Land Plans Part 1 of 2
REP6-005	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.5 Land Plans Part 2 of 2
REP6-006	GT R4 Limited	2.6 Crown Land Plans Onshore

	(trading as Outer Dowsing Offshore Wind)	
REP6-007	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	2.18 Onshore Crossing Plan
REP6-008	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Clean)
REP6-009	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1 Draft Development Consent Order (Tracked)
REP6-010	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.1.1 Schedule of Changes to the Draft Development Consent Order
REP6-011	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Clean)
REP6-012	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	3.2 Explanatory Memorandum (Tracked)
REP6-013	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1 Book of Reference (Clean)
REP6-014	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1 Book of Reference (Tracked)
REP6-015	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.1.1 Schedule of Changes to the Book of Reference
REP6-016	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.3 Statement of Reasons (Clean)
REP6-017	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	4.3 Statement of Reasons (Tracked)
REP6-018	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.9 Chapter 9 Benthic Subtidal and Intertidal Ecology (Clean)
REP6-019	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.9 Chapter 9 Benthic Subtidal and Intertidal Ecology (Tracked)
REP6-020	GT R4 Limited	6.1.11 Chapter 11 Marine Mammals (Clean)

	(trading as Outer Dowsing Offshore Wind)	
REP6-021	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.11 Chapter 11 Marine Mammals (Tracked)
REP6-022	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.25 Chapter 25 Land Use (Clean)
REP6-023	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.1.25 Chapter 25 Land Use (Tracked)
REP6-024	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.3.2 Onshore Crossing Schedule (Clean)
REP6-025	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.3.2 Onshore Crossing Schedule (Tracked)
REP6-026	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	6.3.11.3 Interim Population Consequences of Disturbance Modelling Report Cumulative
REP6-027	NOT IN USE	
REP6-028	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1 Report to Inform Appropriate Assessment (Clean)
REP6-029	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1 Report to Inform Appropriate Assessment (Tracked)
REP6-030	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1 Report to Inform Appropriate Assessment Confidential (Clean)
REP6-031	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1 Report to Inform Appropriate Assessment Confidential (Tracked)
REP6-032	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1.2 Ornithology Population Viability Analysis Habitats Regulations Assessment (Clean)
REP6-033	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1.2 Ornithology Population Viability Analysis Habitats Regulations Assessment (Tracked)
REP6-034	GT R4 Limited (trading as Outer Dowsing Offshore	7.1.2 Annex 2 Offshore Population Viability Analysis (Clean)

	Wind)	
REP6-035	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.1.2 Annex 2 Offshore Population Viability Analysis (Tracked)
REP6-036	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.5 Derogation Case (Clean)
REP6-037	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.5 Derogation Case (Tracked)
REP6-038	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.2 Without Prejudice Biogenic Reef Compensation Plan (Clean)
REP6-039	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.2 Without Prejudice Biogenic Reef Compensation Plan (Tracked)
REP6-040	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.3 Without Prejudice Benthic Compensation Evidence Base and Roadmap (Clean)
REP6-041	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.6.3 Without Prejudice Benthic Compensation Evidence Base and Roadmap (Tracked)
REP6-042	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.1 Kittiwake Compensation Plan (Clean)
REP6-043	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.1 Kittiwake Compensation Plan (Tracked)
REP6-044	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.2 Without Prejudice Guillemot Compensation Plan (Clean)
REP6-045	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.2 Without Prejudice Guillemot Compensation Plan (Tracked)
REP6-046	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.3 Without Prejudice Razorbill Compensation Plan (Clean)
REP6-047	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.3 Without Prejudice Razorbill Compensation Plan (Tracked)
REP6-048	GT R4 Limited (trading as Outer Dowsing Offshore	7.7.4 Offshore Artificial Nesting Structures Evidence Base and Roadmap (Clean)

	Wind)	
REP6-049	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.4 Offshore Artificial Nesting Structures Evidence Base and Roadmap (Tracked)
REP6-050	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.5 Without Prejudice Predator Control Evidence Base and Roadmap (Clean)
REP6-051	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.5 Without Prejudice Predator Control Evidence Base and Roadmap (Tracked)
REP6-052	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.6 Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill (Clean)
REP6-053	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	7.7.6 Without Prejudice Additional Measures for Compensation of Guillemot and Razorbill (Tracked)
REP6-054	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.03 Offshore In-Principle Monitoring Plan (Clean)
REP6-055	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.03 Offshore In-Principle Monitoring Plan (Tracked)
REP6-056	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Clean)
REP6-057	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1 Outline Code of Construction Practice (Tracked)
REP6-058	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.2 Outline Air Quality Management Plan (Clean)
REP6-059	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.2 Outline Air Quality Management Plan (Tracked)
REP6-060	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Clean)
REP6-061	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.1.3 Outline Soil Management Plan (Tracked)
REP6-062	GT R4 Limited (trading as Outer Dowsing Offshore	8.5 Outline Cable Specification and Installation Plan (Clean)

	Wind)	
REP6-063	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.5 Outline Cable Specification and Installation Plan (Tracked)
REP6-064	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities (Clean)
REP6-065	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.1 Outline Marine Mammal Mitigation Protocol for Piling Activities (Tracked)
REP6-066	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.2 Outline Marine Mammal Mitigation Protocol for Unexploded Ordnance Clearance (Clean)
REP6-067	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.6.2 Outline Marine Mammal Mitigation Protocol for Unexploded Ordnance Clearance (Tracked)
REP6-068	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.7 In-Principle Southern North Sea Special Area of Conservation Site Integrity Plan (Clean)
REP6-069	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.7 In-Principle Southern North Sea Special Area of Conservation Site Integrity Plan (Tracked)
REP6-070	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) (Clean)
REP6-071	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) (Tracked)
REP6-072	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy CONFIDENTIAL (Clean)
REP6-073	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.10 Outline Landscape and Ecological Management Strategy (OLEMS) CONFIDENTIAL (Tracked)
REP6-074	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.13 Schedule of Mitigation (Clean)
REP6-075	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.13 Schedule of Mitigation (Tracked)
REP6-076	GT R4 Limited (trading as Outer Dowsing Offshore	8.21 Outline Scour Protection and Cable Protection Management Plan (Clean)

	Wind)	
REP6-077	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.21 Outline Scour Protection and Cable Protection Management Plan (Tracked)
REP6-078	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.24 Spawning Herring Piling Restriction Plan
REP6-079	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	8.25 Onshore Mitigation and Enhancement Principles Document
REP6-080	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.8 Statement of Commonality of Statements of Common Ground
REP6-081	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.4 Compulsory Acquisition and Land Rights Tracker (Schedule of Negotiations & Powers Sought) (Clean)
REP6-082	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	15.4 Compulsory Acquisition and Land Rights Tracker (Schedule of Negotiations & Powers Sought) (Tracked)
REP6-083	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.5 The Applicant's planning obligations and side agreements tracker (Clean)
REP6-084	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.5 The Applicant's planning obligations and side agreements tracker (Tracked)
REP6-085	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.8 Statement of Common Ground with the Environment Agency
REP6-086	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14 (Draft) Statement of Common Ground with Natural England
REP6-087	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14.0 (Draft) Statement of Common Ground with Natural England - Cover Letter
REP6-088	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14.1 (Draft) Statement of Common Ground with Natural England - A DCO & DMLs
REP6-089	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14.2 (Draft) Statement of Common Ground with Natural England - B Marine & Coastal Processes
REP6-090	GT R4 Limited (trading as Outer Dowsing Offshore	18.14.3 (Draft) Statement of Common Ground with Natural England - C Benthic & Intertidal Ecology

	Wind)	
REP6-091	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14.4 Draft Statement of Common Ground with Natural England Annex D Benthic Compensation
REP6-092	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14.5 (Draft) Statement of Common Ground with Natural England - E Marine Mammals
REP6-093	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14.6 (Draft) Statement of Common Ground with Natural England - F Offshore and Intertidal Ornithology
REP6-094	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14.7 (Draft) Statement of Common Ground with Natural England - G Offshore Ornithology Compensation
REP6-095	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.14.8 (Draft) Statement of Common Ground with Natural England Appendix H
REP6-096	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.15 Statement of Common Ground with National Grid Electricity Transmission
REP6-097	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.17 Statement of Common Ground with the Marine Management Organisation
REP6-098	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.18 (Draft) Statement of Common Ground with the Ministry of Defence
REP6-099	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	18.19 Statement of Common Ground with the Royal Society for the Protection of Birds (RSPB)
REP6-100	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.6 Inter-relationship with other infrastructure projects (Clean)
REP6-101	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	19.6 Inter-relationship with other infrastructure projects (Tracked)
REP6-102	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.17 Guillemot and Razorbill Compensation Quanta (Clean)
REP6-103	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	20.17 Guillemot and Razorbill Compensation Quanta (Tracked)
REP6-104	GT R4 Limited (trading as Outer Dowsing Offshore	21.8 The Applicant's Comments on Natural England's Risk and Issues Log

	Wind)	
REP6-105	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	21.21 NGET Protective Provisions Plan
REP6-106	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.11 Sabellaria spinulosa Reef Supporting Habitat Technical Note (Clean)
REP6-107	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	22.11 Sabellaria spinulosa Reef Supporting Habitat Technical Note (Tracked)
REP6-108	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	23.6 Wood Thilsted Wake Impact Assessment report (Clean)
REP6-109	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	23.6 Wood Thilsted Wake Impact Assessment report (Tracked)
REP6-110	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.2 The Applicant's Comments on Deadline 5 Submissions
REP6-111	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.3 The Applicant's Comments on Responses to the Report on the Implications for European Sites (RIES)
REP6-112	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.4 The Applicant's Written Summary of Oral Case put at the Compulsory Acquisition Hearing held on 19 March 2025
REP6-113	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.5 The Applicant's Written Summary of Oral Case put at the Issue Specific Hearing held on 19 March 2025
REP6-114	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.6 The Applicant's Response to Actions Points recorded at CAH2 and ISH8
REP6-115	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.7 The Applicant's Response to the Rule 17 Request 17 March 2025
REP6-116	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.8 The Applicant's Close of Examination Progress Tracker
REP6-117	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.9 Lincs Protective Provisions Plan
REP6-118	GT R4 Limited (trading as Outer Dowsing Offshore	24.10 Race Bank Protective Provisions Plan

	Wind)	
REP6-119	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.11 DEL Protective Provisions Plan
REP6-120	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.12 The Applicant's Submissions on Wake Loss Matters
REP6-121	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.13 The Applicant's Closing Statements
REP6-122	GT R4 Limited (trading as Outer Dowsing Offshore Wind)	24.14 Letters of Consent to Disapplication of Legislation
REP6-123	Equinor New Energy Limited on behalf of Equinor IPs	Post-hearing submissions including written summaries of oral case put at hearings during w/c 18 March 2025 (if held)
REP6-124	Lincolnshire County Council	Post-hearing submissions including written summaries of oral case put at hearings during w/c 18 March 2025 (if held)
REP6-125	Perenco	Post-hearing submissions including written summaries of oral case put at hearings during w/c 18 March 2025 (if held)
REP6-126	The Ørsted IPs	Post-hearing submissions including written summaries of oral case put at hearings during w/c 18 March 2025 (if held)
REP6-127	Environment Agency	Final Principal Areas of Disagreement Statements
REP6-128	The Marine Management Organisation	Final Principal Areas of Disagreement Statements
REP6-129	Brown & Co Property and Business Consultants LLP	IP's Closing Statement(s)
REP6-130	Julie Anne Mason	IP's Closing Statement(s)
REP6-131	National Gas Transmission Plc	IP's Closing Statement(s)
REP6-132	National Grid Electricity Transmission Plc	IP's Closing Statement(s)
REP6-133	The Marine Management Organisation	IP's Closing Statement summary
REP6-134	The Marine Management Organisation	IP's Closing Statement(s)
REP6-135	The Ørsted IPs	IP's Closing Statement(s)
REP6-136	Environment Agency	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules
REP6-137	The Crown Estate	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

REP6-138	The Royal Society for the Protection of Birds	Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules
REP6-139	NOT IN USE	
REP6-140	Cadent Gas Limited	Final preferred drafting of protective provisions, if not fully agreed between the applicant and respective parties before Deadline 6
REP6-141	Perenco	Final preferred drafting of protective provisions, if not fully agreed between the applicant and respective parties before Deadline 6
REP6-142	Equinor New Energy Limited on behalf of Equinor IPs	IP's Closing Statement(s)
REP6-143	Equinor New Energy Limited on behalf of Equinor IPs	Other - Wake Effects Position Statement
REP6-144	Natural England	Comments on any other submissions received at Deadline 5 - Covering letter
REP6-145	Natural England	Comments on any other submissions received at Deadline 5 - Appendix A1 DCO and DML Deadline 6
REP6-146	Natural England	Comments on any other submissions received at Deadline 5 - Appendix B4 Natural England's Advice on Marine Processes Deadline 6
REP6-147	Natural England	Comments on any other submissions received at Deadline 5 - Appendix C7 Natural England's Advice on Benthic Ecology
REP6-148	Natural England	Comments on any other submissions received at Deadline 5 - Appendix E4 Natural England's advice on Marine Mammals
REP6-149	Natural England	Comments on any other submissions received at Deadline 5 - Appendix F6 Natural England's advice and end of Examination position on Offshore Ornithology
REP6-150	Natural England	Comments on any other submissions received at Deadline 5 - Appendix G4 Natural England's position regarding the proposed reduction in lead-in time for kittiwake Artificial Nesting Structure(s)
REP6-151	Natural England	Comments on any other submissions received at Deadline 5 - Appendix G5 - Natural England's End of Examination Position on Offshore Ornithology Compensation Deadline 6 - late submission accepted at the discretion of the Examining Authority
REP6-152	Natural England	Comments on any other submissions received at Deadline 5 - Appendix I4 Natural England's advice on Onshore Ecology relating to Onshore Ornithology
REP6-153	Natural England	Comments on any other submissions received at Deadline 5 - Appendix J6 - Natural England's NE Risk and Issues Log Deadline 6
REP6-154	Natural England	Comments on any other submissions received at Deadline 5 - Appendix J6 - Natural England's NE Risk and Issues Log Deadline 6 - Updated Tab G Offshore Ornithology Compensation - late

		submission accepted at the discretion of the Examining Authority
REP6-155	Natural England	Comments on any other submissions received at Deadline 5 - Appendix K4 Response to The Infrastructure Planning (Examination Procedure) Rules 2010 Rule 17 Letter 21 March 2025
REP6-156	Natural England	Comments on any other submissions received at Deadline 5 - L1 Comments on the Offshore In-Principle Monitoring Plan (REP4a-074)
REP6-157	T.H. Clements & Son Limited	Post-hearing submissions including written summaries of oral case put at hearing during w/c 18 March 2025, IP's Closing Statements, Final Principal Areas of Disagreement Statements and Comments on any other submissions received at Deadline 5
REP6-158	Lincolnshire County Council	Late submission for deadline 6 accepted at the discretion of the Examining Authority
REP6-159	Natural England	Comments on any other submissions received at Deadline 5- Appendix B5 Comments on Marine Processes regarding the proposed ORCP Area

Other Documents

OD-001	Section 56 Notice
OD-002	Regulation 32 - Transboundary Screening
OD-003	S56 Certificate of Compliance
OD-004	S59 Certificate of Compliance
OD-005	Regulation 16 Compliance