



Department for  
Business, Energy  
& Industrial Strategy

Department for Business,  
Energy & Industrial Strategy

1 Victoria Street  
London  
SW1H 0ET

T +44 (0)20 7215 5000  
E [beiseip@beis.gov.uk](mailto:beiseip@beis.gov.uk)  
W [www.gov.uk](http://www.gov.uk)

Ms Carly Vince  
NNB Generation Company (SZC) Limited  
90 Whitfield Street  
London  
W1T 4EZ

Our Ref: EN010012

20 July 2022

Dear Ms Vince,

## **PLANNING ACT 2008: APPLICATION FOR DEVELOPMENT CONSENT FOR THE SIZEWELL C NUCLEAR POWER STATION**

### **1. Introduction**

- 1.1 I am directed by the Secretary of State for Business, Energy and Industrial Strategy (“the Secretary of State”) to advise you that consideration has been given to the report dated 25 February 2022 of the Examining Authority (“the ExA”), comprising five examining Inspectors, Wendy McKay, David Brock, Helen Cassini, Neil Humphrey, and Edwin Maund, who conducted an examination into the application (“the Application”) submitted on 27 May 2020 by NNB Generation Company (SZC) Limited (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Sizewell C Nuclear Power Station (“the Proposed Development”).
- 1.2 The Application was accepted for examination on 24 June 2020. The examination began on 14 April 2021 and concluded on 14 October 2021. The Secretary of State received the report containing the ExA’s conclusions and recommendation on 25 February 2022. A total of 1282 Relevant Representations (“RRs”) (as defined in the Planning Act 2008) were received by the Planning Inspectorate.
- 1.3 The principal matters considered by the ExA, as set out in its Report are:
- Agriculture and soils;
  - Air quality;

- Alternatives;
- Amenity and recreation;
- Biodiversity and ecology (terrestrial);
- Climate change and resilience;
- Coastal geomorphology;
- Community effects;
- Cumulative impact;
- Flood risk, groundwater, surface water;
- Health and wellbeing;
- Historic environment (terrestrial and marine);
- Landscape impact, visual effects and design;
- Marine ecology;
- Marine water quality;
- Marine navigation;
- Policy and need;
- Radiological considerations;
- Socio-economics;
- Traffic and transport;
- Waste (conventional) and material resource;
- Findings and conclusions in relation to the Habitats Regulations Assessment;
- Compulsory acquisition and related matters.

1.4 Following receipt of the ExA's Report, the Secretary of State requested further information from the Applicant, the Environment Agency ("EA"), the Marine Management Organisation ("MMO"), Natural England ("NE"), and the Office for Nuclear Regulation ("ONR"), on 18 March 2022<sup>1</sup> in respect of: water supply, desalination, drainage, traffic and transport, coastal considerations, the Espoo Convention, the Habitats Regulations Assessment<sup>2</sup>, Biodiversity and Ecology. Interested Parties were invited to provide their comments on the responses received by 1 April 2022, with the deadline for response extended to 8 April 2022 following requests from the MMO, NE, and the EA.

1.5 A second letter requesting further information was issued by the Secretary of State on 31 March 2022<sup>3</sup>. This requested information on a range of issues, including harbour byelaws and powers, statements of common ground, control documents, the Soil Management Plan, and matters related to the Habitats Regulations Assessment, biodiversity and ecology.

1.6 On 25 April 2022, the Secretary of State invited Interested Parties ("IPs") to comment on the responses received to his letters of 18 and 31 March 2022. The Secretary of State also invited the Government of Austria to comment on the Applicant's and the ONR's responses to its questions, and asked the Applicant to respond to specific points regarding traffic and transport mitigation and certified documents, on 25 April 2022. On 12 May 2022 the statutory

<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-008877-Sizewell%20C%20-%20Secretary%20of%20State%20Information%20Request.pdf>

<sup>2</sup> Regulation 63 of the Conservation of Habitats and Species Regulations 2017

<sup>3</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-010762-Sizewell-C-Information-Request-No.2-31-03-2022.pdf>

deadline for determining the Application was extended to 8 July 2022. On 16 May 2022 the Secretary of State invited NE, the Royal Society for the Protection of Birds, and Suffolk Wildlife Trust, to comment on information provided by the Applicant regarding a pair of breeding marsh harriers<sup>4</sup>. The Secretary of State also raised other points for NE to respond to on 16 May 2022. On 31 May 2022, the Secretary of State invited the Applicant and the ONR to comment on the final expert statement submitted by the Government of Austria<sup>5</sup>. The Secretary of State's consideration of these issues, the responses received, and the relevant comments submitted by IPs, is set out in the relevant sections below.

- 1.7 The Order as applied for, would grant development consent for the construction, operation, maintenance and decommissioning of a Nuclear Power Station comprised of two United Kingdom European Pressurised Reactor (UK EPR™) units with an expected net electrical output of approximately 1,670 MW per unit, giving a total site capacity of approximately 3,340 MW.
- 1.8 In addition to the key operational elements of the UK EPR™ units, the Sizewell C Project comprises other permanent and temporary development to support the construction, operation and maintenance of Sizewell C. The key elements are the main site, comprising the Sizewell C nuclear power station itself, offshore works, land used temporarily to support construction including an accommodation campus, the enhancement of sports facilities in Leiston, fen meadow and marsh harrier compensation land, and a series of off-site associated development sites in the local area. These are:
- two temporary park and ride sites; one to the north-west of Sizewell C at Darsham (“the Northern Park and Ride”, “the NPR”), and one to the south-west at Wickham Market (“the Southern Park and Ride”, “the SPR”);
  - a permanent road to bypass the A12 through Stratford St Andrew and Farnham (the Two Village Bypass – (“the TVB”));
  - a permanent road linking the A12 to the Sizewell C main development site (the Sizewell Link Road – (“the SLR”));
  - permanent highway improvements at Yoxford and other road junctions;
  - a temporary freight management facility on land to the south-east of the A12/A14 junction; and
  - a temporary extension of the existing Saxmundham to Leiston branch line into the main development site - the 'Green Rail Route' (“GRR”) and other permanent rail improvements on the Saxmundham to Leiston branch line.
- 1.9 The Applicant seeks powers of compulsory acquisition over land and new rights over land to support the delivery of the project.

---

<sup>4</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-010858-SZC-BEIS-%20Letter-16-May-2022.pdf>

<sup>5</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-010979-Sizewell%20C%20-%20Letter%20to%20Applicant%20and%20ONR.pdf>

- 1.10 A number of change requests were submitted by the Applicant during the course of the Examination. This included Change 19 which requested a change to the Water Supply Strategy to allow for a temporary desalination plant.
- 1.11 Published alongside this letter on the Planning Inspectorate's National Infrastructure website is a copy of the ExA's Report of Findings, Conclusions and Recommendation to the Secretary of State ("the ExA Report"). The main features of the development proposals, as applied for, and site are set out in section 2 of the ExA's Report. The ExA's findings are set out in sections 5 and 6 of the ExA Report, and the case for development consent and the ExA's conclusions on the terms of the Order are set out at sections 7 and 10 respectively.
- 1.12 The term Main Development Site ("MDS") used in this letter has the same meaning as in the ExA report. However, it is noted that the term Main Development Site is also defined in article 2 (interpretation) of the Order for the specific purposes of the Order and therefore has a slightly different meaning in that context.

#### Submissions to the Secretary of State after Receipt of the ExA's Report

- 1.13 The Secretary of State received late representations in respect of issues on which he was not specifically consulting from a number of individuals following the close of the examination period. The Secretary of State has considered these representations and has taken the view that these late representations do not materially add to the information that was already available to him through the ExA examination and report.

## **2. Summary of the ExA Recommendation**

- 2.1 The ExA's recommendation in section 10.3 (page 414 of Volume 4 of the ExA Report) is as follows:

*"10.3.1 For all the above reasons and in the light of the ExA's findings and conclusions on important and relevant matters set out in this Report and based on the evidence and information before us at the close of the Examination, the ExA recommends that unless the outstanding water supply strategy can be resolved and sufficient information provided to enable the Secretary of State carry out his obligations under the Habitats Regulations, the case for an Order granting development consent for the application is not made out."*

- 2.2 This letter is intended to be read alongside the ExA's Report and unless it is specifically stated that the Secretary of State disagrees with the ExA's conclusions or recommendations then any perceived difference in emphasis between the summaries in this letter and the ExA's Report should not be inferred as conveying disagreement with the ExA's Report. Where not otherwise stated, the Secretary of State can be taken to agree with the ExA's findings, conclusions and recommendations as set out in the ExA's Report and

the reasons given for the Secretary of State's decision are those given by the ExA in support of the conclusions and recommendations.

### **3. Summary of the Secretary of State's views**

- 3.1 The Secretary of State has considered the ExA's Report and all other material considerations, including further representations received after the close of the ExA's examination ("the post-examination representations"). The Secretary of State's detailed consideration of the ExA's Report and the post-examination representations is set out in the following paragraphs. All numbered references, unless otherwise stated, are to paragraphs of the ExA's Report ["ER \*.\*.\*"]. This letter is a statement of the reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the 2017 Regulations").
- 3.2 The Secretary of State has considered the overall planning balance and, for the reasons set out in this decision letter, has concluded that the very substantial and urgent need for the proposal outweighs the harms, and that development consent should therefore be granted for the Proposed Development.

### **4. Matters considered by the ExA during the Examination**

#### Policy and Need

- 4.1 The ExA notes [ER 5.19.1 et seq.] the relevant policy considerations set out in NPS EN-1, including paragraphs 3.1.1 to 3.1.4 which sets out the approach to decision-making for energy infrastructure covered by the NPS and highlights the urgent need for energy infrastructure of this kind. Paragraph 4.1.2 explains that the reason the decision maker should start with a presumption in favour of granting consent to applications for energy NSIPs is 'the level and urgency of need for infrastructure of the types covered in the energy NPSs' [ER 5.19.5]. Section 3.5 of EN-1 considers the role of nuclear electricity generation, including paragraph 3.5.1 which states that '*For the UK to meet its energy and climate change objectives, the Government believes that there is an urgent need for new electricity generation plant, including new nuclear power. Nuclear power generation is a low carbon, proven technology, which is anticipated to play an increasingly important role as we move to diversify and decarbonise our sources of electricity*' [ER 5.19.6]. EN-1 paragraphs 3.5.9 and 3.5.10 explain the urgency for the need for new nuclear power [ER 5.19.8]. The ExA also set out [ER 5.19.9 et seq.] the relevant policy considerations set out in NPS EN-6, with paragraphs 2.2.1 and 2.2.2 highlighted by the ExA.
- 4.2 The ExA considers [ER 5.19.11 et seq.] the Government's 2017 Written Ministerial Statement ("WMS") and notes that the WMS states that EN-6 '*only "has effect" for the purposes of section 104 of the Planning Act 2008 ("the Act") for development which forms part of a project able to demonstrated expected deployment by the end of 2025*', but confirms that '*the Government continues to give its strong in principle support to project proposals at those sites currently listed in EN-6*' and that '*even if EN-6 is considered not to have effect under*

*section 104 of the Act for such a project, section 105 of the Act would apply to the decision on whether or not to grant development consent for the project'. It also notes that 'the Secretary of State would be required, under section 105(2)(c) of the Act, to have regard to the content of EN-1 and EN-6, unless they have been suspended or revoked'.*

- 4.3 The ExA notes [ER 5.19.16 et seq.] the relevant policy considerations set out in the UK MPS, other relevant national policy documents and publications [ER 5.19.18], the NPPF [ER 5.19.19], local plan policies [ER 5.19.20 et seq.] and relevant case law [ER 5.19.23].
- 4.4 The ExA considers [ER 5.19.261] the Application falls to be considered under section 105 of the PA2008, that EN-1 and EN-6 are important and relevant considerations to which the Secretary of State should have regard in reaching his decision in accordance with section 105(2)(c) of PA 2008, and that since EN-1 and EN-6 have neither been suspended nor revoked, the WMS requires the Secretary of State to have regard to their content in reaching his decision.
- 4.5 The ExA concludes [ER 5.19.262] that the changes to the Climate Change knowledge-base, and any uncertainties of climate change impacts, do not represent a change of circumstances in the context of the WMS. The ExA considers [ER 5.19.263] that in relation to the WMS and the weight to be attached to EN-1 and EN-6, there have been no relevant change of circumstances that reduce the weight to be afforded to the policies in those NPSs, and significant weight should be attached to them as required by the WMS. The ExA considers [ER 5.19.264] that the nuclear specific policies in the NPSs should form the primary means of assessing the acceptability in planning policy terms of the Application. The Secretary of State agrees with the ExA that these nuclear specific policies are relevant, and also considers that non-nuclear specific policies in NPS EN-1 are also relevant to the consideration of the Application.
- 4.6 The ExA finds [ER 5.19.265] that the Government has clearly and consistently explained the role that nuclear power generation has to play in decarbonising the energy sector and the wider economy, and that it is the Government's position on need which is determinative. The ExA notes [ER 5.19.265] there is an urgent need for new nuclear energy generating infrastructure of the type comprised by the Proposed Development. The ExA finds [ER 5.19.266] that the Proposed Development responds directly to that urgent need, and to the national policy commitment to deliver a large scale new nuclear power station to meet that requirement.
- 4.7 The ExA concludes [ER 5.19.266] that the Proposed Development's "actual contribution" to satisfying the need for this type of infrastructure would be very substantial. The ExA therefore ascribes [ER 5.19.266] very substantial weight to this factor for the Order being made.
- 4.8 The Secretary of State agrees that the Proposed Development will make a very substantial contribution towards meeting the national need set out in NPS EN-1 and EN-6, and the substantial contribution it would make in terms of the delivery of low carbon energy, ultimately assisting with the decarbonisation of the economy in line with the UK's legal obligations in the Paris Agreement

under the United Nations Framework Convention on Climate Change and the Climate Change Act 2008 (as amended).

- 4.9 The Energy White Paper, *Powering our Net Zero Future*, was published on 14 December 2020. It announced a review of the suite of energy NPSs but confirmed that the current NPSs were not being suspended in the meantime. The review of the energy NPSs is currently underway and draft versions of the documents have been published. Although these are in draft form and have not been designated, the Secretary of State considers them to be important and relevant for the purpose of Section 105 of the Planning Act 2008. As such, the Secretary of State has had regard to the draft energy NPSs in deciding the Application, but except as specifically mentioned elsewhere in this letter, he does not consider that there is anything contained within the drafts of the relevant NPS documents that would lead him to reach a different decision on the Application. The existing EN-1, together with EN-6, therefore remains the primary basis for the Secretary of State's consideration of the Application.
- 4.10 The Secretary of State also notes that the Government's British Energy Security Strategy ("BESS") was published in April 2022, after the ExA's Report was submitted. The BESS states that *'We can only secure a big enough baseload of reliable power for our island by drawing on nuclear. Our aim is to lead the world once again in a technology we pioneered so that by 2050, up to a quarter of our power consumed in Great Britain is from nuclear'*. The Secretary of State considers that the Proposed Development would make a substantial contribution to realising the aims set out in the BESS and that as a result of the publication of the BESS, the need for developments of this type has not been reduced.
- 4.11 The Secretary of State agrees that this Application falls to be considered under section 105 of the PA2008 and that NPS EN-1 and EN-6 contain information, assessments, and statements which are important and relevant to the Secretary of State's decision. The Secretary of State agrees with the ExA's assessment of the need for this type of energy infrastructure and, in accordance with paragraph 3.2.6 of EN-1, attributes substantial weight to this need for the Order being made.

#### Water Supply

- 4.12 The Applicant's proposal for its principal potable water supply at the time of application was intended to be from mains water, supplied by Essex & Suffolk Water from within the Blyth Water Resource Zone ("Blyth WRZ") [ER 5.11.158]. The Applicant also considered using a combination of water supply options that would ensure security of supply and help to reduce the demand for potable water from the mains supply. The primary components of the sustainable water strategy for the main development site were: mains water provided by Essex & Suffolk Water (the trading name of Northumbrian Water Limited ("NWL")) from within Blyth WRZ; mains provided by Essex & Suffolk Water from within the Northern/Central WRZ via a new pipeline transfer connection to the Blyth WRZ; additional mains water supply enabled by licence trading with local licence holders; storage of non-potable water in the north of the main development site; and water efficiency measures to reduce demand from mains supply. It was

acknowledged that there was still ongoing work being undertaken during the Examination [ER 5.11.160], including the key tasks of modelling work by Essex and Suffolk Water and the EA to confirm the volume of potable water that can be supplied from the Blyth WRZ for the Proposed Development, continued engagement with Essex and Suffolk Water and the EA regarding the potential to transfer mains water from within the Northern/Central WRZ via a new pipeline transfer connection to the Blyth WRZ and an initial review of local licences abstractions, to shortlist potential abstractions for trading, and understand available volumes from these licences.

- 4.13 Numerous RR's expressed concern that the Proposed Development did not specify how the water demand would be supplied, and also raised concerns about the implications of the additional demand created for local water supplies [ER 5.11.256]. These concerns were shared by ESC, SCC and the EA, who stated that the water supply options described do not demonstrate that a suitable and ecologically sustainable source of water can be provided [ER 5.11.256].
- 4.14 In response to the ExA's FWQ asking for an update on the water supply strategy, the Applicant indicated that its preferred potable water supply was a new transfer main from NWL's Northern/Central WRZ where water would be supplied from NWL's existing supply headroom in its Northern/Central WRZ and in August 2020 NWL provided a high level outline design and cost estimate for the main based on an assumed demand during construction and operation [ER 5.11.259]. The sustainability of the Northern/Central WRZ abstraction was subject to a Water Industry National Environment Programme ("WINEP") investigation and an interim report by NWL was due in early June 2021 to be followed by a full feasibility study. NWL responded to the FWQ confirming on an indicative basis that it considered it may be possible to deliver the supply transfer main scheme by September 2024 at the earliest and it was preparing a supply profile to confirm what water it may be able to supply between April 2022 and September 2024 [ER 5.11.262]. A number of IPs expressed significant concerns about the progress of the water supply strategy and ensuring that the sustainability of supply did not adversely affect already stressed water resources and NE, supported by RSPB/SWT, raised various concerns and stated that Suffolk Water and the wider East Anglia area is under serious water stress and it asked the Applicant to demonstrate that the level of abstraction required could be sourced sustainably without adverse impacts on European sites [ER 5.11.264-5].
- 4.15 Walker Morris, on behalf of NWL, indicated that the Blyth WRZ does not have 4MI/day of supply headroom for the Proposed Development [ER 5.11.266], and they state that the EA considers NWL abstractions in the Blyth WRZ to be over licenced, with NWL unable to meet additional water demand by abstracting more water and these issues were being addressed by the Water Industry National Environment Programme ("WINEP") process. They went on to say that the water supply for the Proposed Development would require a new water main pipeline from another catchment area [ER 5.11.266]. NWL considered the additional infrastructure required would take until September 2026 at the earliest to deliver assuming no delays. They considered this position



jeopardised NWL's ability to enter into a Section 55 Agreement<sup>6</sup> (pursuant to the Water Industries Act 1991 ("WIA")) with the Applicant for the supply of non-domestic water. In addition, NWL were aware the Applicant had indicated they were seeking to requisition a water main to serve the accommodation campus as a domestic water supply under s.41 of the WIA and NWL was concerned it may be compelled to supply water creating a critical risk to its existing customers in the absence of additional infrastructure [ER 5.11.267]. On this basis, Walker Morris considered it appropriate at that stage to issue a holding objection to the application pending proposal of a suitable mechanism ensuring that NWL would not be required to provide the relevant water supply until its additional infrastructure was in place [ER 5.11.268]. NWL subsequently provided an update of their position [REP7-147] at which point it was unable to confirm it would be able to supply water or related infrastructure for the proposed development and set out its concerns in relation to being compelled to provide a domestic supply to the accommodation campus and its inability to commit to entering into a s.55 WIA agreement to supply water and infrastructure for non-domestic purposes [ER 5.11.269] and referred to the need for future modelling to assess the precise quantum of sustainable water supply in the Northern/Central WRZ [ER 5.11.270].

- 4.16 At Deadline 7, the Applicant submitted a revised Water Supply Strategy, and separately submitted Change 19. This proposed a temporary desalination plant to supply potable water during the early construction phase until such a time as the NWL supply transfer main could be operational. The revised approach involved the use of water tankers to supply potable water for construction, prior to the desalination plant becoming operational. The desalination plant would operate until the supply transfer main was available late in the construction period [ER 5.11.271]. Row 5.1 in Table 2.1 of the SoCG (submitted in October 2021) [REP10-092] between the Applicant and NWL states that there is agreement between the two parties that for the initial 9-12 months of construction, whilst the temporary desalination plant is being installed, the Proposed Development's water supply would be met by water tankers, and that these tankers would need to be filled outside the local Blyth WRZ, where sufficient licensed headroom exists. It further explains that NWL has indicated that the water tankers cannot be filled from its Suffolk network, and that NWL has identified a number of potential options within its Essex Supply Area, subject to further investigation and negotiation with the Applicant. The ExA considered the potential environmental impacts of the construction and operation of the desalination plant and the use of water tankers prior to its commissioning. The ExA concluded that there would not be significant adverse effects from emissions to air from the desalination plant [ER 5.3.214]. The ExA was satisfied that there would not be significant changes to air quality from road traffic emissions from vehicles servicing the Proposed Development [ER 5.2.216]. Overall the ExA concluded that there was no evidence of any risk that the UK's ability to comply with air quality legislation [ER 5.3.218], provided that a Requirement is included to notify the EA and ESC so that the time period for operation of the desalination plant can be limited to that presented in the final desalination plant air quality assessment [ER 5.3.219]. The Secretary of State's

---

<sup>6</sup> Request for non-domestic supply - Section 55, Water Industry Act 1991: <https://www.legislation.gov.uk/ukpga/1991/56/section/55>

Habitats Regulations Assessment concludes that adverse effects on protected site integrity from the effects of water supplied via tankers and via a temporary desalination plant could be excluded, without prejudice to the Environment Agency's subsequent permitting processes. In accordance with the policies set out in EN-1 and EN-6, the Secretary of State has no reason to believe that an Environmental Permit will not be granted and is confident that impacts will be assessed as part of the Environment Agency's permitting process.

- 4.17 Given the significant change to the original Water Supply Strategy, the ExA held an additional ISH 15 on the environmental effects of the desalination plant and discussed the current position on water supply at ISH 11. Numerous IPs expressed concerns about the changes to the strategy, including the lack of clarity on the permanent water supply [ER 5.11.272].
- 4.18 At ISH11 the ExA discussed the sourcing of the short term tankered water supply and the certainty of water supply to the Proposed Development [ER 5.11.273-4]. NWL's concern was that that the Northern/Central WRZ's ability to provide the supply for the transfer main relied on extraction from the River Waveney, but recent discussions with EA had led NWL to conclude that it may be required to cut extraction levels from the River by as much as 60% and it stated they would not be able to understand this fully until the modelling had been completed and reviewed by the EA. NWL stated that if abstraction from the River Waveney were to be capped, then it would require significant capital projects such as (for instance) a permanent desalination plant, or sewage effluent reuse plant, to meet anticipated future demand [ER 5.11.274]. The Applicant stated that the temporary desalination plant could be retained through the construction period and it was confident that working with NWL it would be able to resolve the permanent water supply issues for the Proposed Development [ER 5.11.275]. NWL explained that its ongoing modelling work to understand whether there was a sustainable source of water supply in the Northern Central WRZ was due to complete on 30 September 2021 and the EA would then need to review this and it was unlikely to be completed by close of the examination [ER 5.11.277]. At ISH15 the ExA asked about the water supply solution during the reinstatement period for the temporary construction area and also onward through the operation of the Proposed Development [ER 5.11.278]. The Applicant criticised the alternative put forward by some IPs of putting the project on hold until a water main had been put in place as it considered there was an acceptable way of supplying water in the interim and it was pursuing the most sustainable water supply strategy in the circumstances [ER 5.11.279]. The Applicant also considered there was no justification for extending the examination as suggested by one IP as it considered that even if the modelling process concluded that there was no capacity in the Northern Central WRZ, a requisite supply would be available which would be dealt with under a separate statutory regime which would provide a mechanism for delivery a supply [ER 5.11.280].
- 4.19 The ExA noted that concerns were also raised about the non-potable water supply but that the Applicant responded to these concerns reaffirming its commitments set out in the Water Supply Strategy for supply of non-potable water throughout the construction period [ER 5.11.276].

- 4.20 The ExA notes [ER 5.11.281] that NWL confirmed that the outcome of the WINEP modelling exercise was further delayed and would be unknown at the close of the Examination, but identifies [ER 5.11.282] that the Applicant and NWL are both confident they could work towards a permanent water supply solution, as confirmed in the SoCG [REP10-092]. The ExA notes that they had agreed the necessary protective provisions (part 6 Schedule 19 of the draft Order) under which the Applicant will not request a domestic water supply for accommodation provision unless agreed by ESW and ESW will use its reasonable endeavours to supply potable water to the Proposed Development subject to the conditions that ESW can confirm there is sufficient water in the North Central WRZ to meet the demand or new supply schemes have been identified and approved in ESW's Water Resources Management Plan 2024 ("WRMP24"). Additionally, the ExA notes [ER 5.11.283] that NWL has identified that if the WINEP modelling process does not identify enough capacity in the Northern Central WRZ to supply the Proposed Development in accordance with the Applicant's preferred water supply solution, then NWL will identify new supply schemes in their WRMP24 which may take longer to deliver. NWL agreed that 2032 has been identified by the Applicant as the backstop date for the long term supply to be fully available. The ExA notes that this date would correspond with the end of the proposed construction period and prior to commencement of the cold function testing of the Proposed Development [ER 5.11.283].
- 4.21 NE submitted that the pipeline/mains transfer is a fundamental component of the eventual operation of the Proposed Development, and considered that the potential impacts of its construction should be clearly assessed in accordance with the NPS and the Secretary of State's Scoping Opinion [ER 5.11.284]. NE consider that without such impact assessments being available, it is unable to advise on whether this key element of the Proposed Development may have an impact on designated sites already considered by the Applicant, or others further afield that may be affected by abstraction of this scale and so it is unable to advise whether adverse effects on designated sites from these elements can be ruled out. NE also referenced water supply in its concerns regarding the likelihood of cumulative and in-combination effects being missed or downplayed if HRA conclusions for integral and inextricably linked elements of the project and pushed down the line into other consenting regimes beyond the Order [ER 5.11.284].
- 4.22 The ExA considers that the information available on the potential cumulative and 'in combination' effects of the pipeline/transfer main or other solution is currently limited as the chosen source and location of the transfer main is not yet known and the findings of the WINEP study are required to determine the preferred, sustainable option for a supply. The ExA states that the latter will be subject to its own assessments, including HRA and the Applicant's cumulative assessment of the preferred pipeline/transfer main was high level and contained no conclusions specific to matters of HRA and refers to Chapter 6 of its report for more details on the HRA considerations [ER 5.11.285].
- 4.23 The ExA notes that the Applicant had responded to the effect that the Order does not include a request to abstract water and in the event that the transfer main was pursued it would be promoted by the water company and would

undergo its own planning process which would include assessment under the Habitats Regulations as necessary and there can be no requirement to assess, at this stage, the development which is not applied for as part of the application for development consent and there was no need for environmental assessment of any such abstraction during the application for development consent process [ER 5.11.286].

- 4.24 The ExA's view is that the Applicant's stance does not address the need to fully consider the cumulative assessment of the environmental effects of the proposed water supply solution that is fundamental to the operation of the Proposed Development [ER 5.11.286] and agrees [ER 5.11.287] with NE that it is unable to undertake a meaningful assessment of potential effects arising from the chosen solution for operational supply in combination with the Proposed Development from the evidence presented to the Examination, and accordingly considers it has not been provided with sufficient information or certainty on the issue of permanent water supply.
- 4.25 In response to a question from the ExA with respect to the nuclear site licence application and lack of certainty about the permanent water supply [ER 5.11.288] the ONR responded that it '[t]here is no specific Licence Condition covering the requirement for a reliable water supply'. However, having referred to a number of Licence Conditions, the ONR considered that in fulfilment of these licence conditions the ONR 'would expect the licensee to put in place a reliable source of water before nuclear safety related activities take place on the site that are dependent on such a supply. This may be during the later stages of commissioning, but such a supply will certainly be needed before the station begins to raise power from nuclear reactions in the core'.
- 4.26 TASC suggested that any Order granted should be on the basis of a Requirement only allowing commencement if the water company can guarantee water supply throughout operation and decommissioning [ER 5.11.289]. The ExA notes that whilst such a requirement could prevent the power station from operating and hence nullify the benefit of any consent granted, it would not in itself achieve the desired objective of a sustainable water solution. The ExA does not consider that this would provide a satisfactory means of controlling this fundamental aspect of the project [ER 5.11.289].
- 4.27 At the close of the examination the ExA considers that there was still uncertainty as to where the permanent water supply would be sourced and how the necessary water would be transferred to the Proposed Development [ER 5.11.290]. The ExA notes that at ISH15 both the Applicant and NWL were confident that a permanent water supply solution would be developed and states that balanced against this are the protective provisions that would allow NWL not to agree to the supply of domestic water and also the necessary long term supply of potable water if the conditions outlined are not met [ER 5.11.291]. The ExA considers that in the circumstances it has to consider the possibility that a sustainable water supply may not be able to be identified and from what the ONR has set out there remains a possibility that the Proposed Development may not be able to operate [ER 5.11.292]. The ExA also states that it needs to consider the potential cumulative environmental effects of any potential water supply solution, noting that the Applicant briefly outlined a

consideration of a cumulative assessment of the originally proposed transfer main solution from the Northern Central WRZ and the identification of no new or different significant effects from those in ES Volume 10 Chapter, but considers that this was only based on a very small scale plan showing the potential route of the transfer main and the cumulative assessment of the preferred pipeline/transfer main does not contain any conclusions specific to matters of HRA and, in any event, the lack of certainty of this routing option being the final water supply solution resulting in it giving this assessment little weight [ER 5.11.293]. The ExA notes that no cumulative effects assessment has been provided in respect of the other potential solutions outlined by the Applicant and NWL, with the Applicant's position being that any water supply would be delivered under a separate statutory regime and as such any environmental assessment required would be undertaken as part of that process, whereas the concerns by NE about the implications for the HRA are discussed in more detail in Chapter 6 of the ExA's Report [ER 5.11.294]. The ExA states that it accepts the position of NE that the water supply strategy is a fundamental component of the operational Proposed Development [ER 5.11.294].

- 4.28 The ExA concludes [ER 5.11.295] that it cannot recommend that the Order should be granted without greater clarity about a sustainable water supply solution and any consequential environmental effects. The ExA recommends [ER 5.11.296] that the Secretary of State may wish to consult with the Applicant, NWL, the EA and other IPs to identify whether there has been any progress on the identification and assessment of effects of a sustainable permanent water supply solution for the Proposed Development, prior to making a decision on the Application. The ExA considers [ER 7.5.7] that, even if the Proposed Development and the water supply are considered to be two separate projects, the cumulative effects associated with it should be assessed at this stage.
- 4.29 On 18 March 2022, the Secretary of State requested further information from the Applicant. The Secretary of State referred to the letter from NWL, dated 23 February 2022, which advised that NWL are unable to meet the Proposed Development's long-term demand for water supply from existing water resources, and that a number of demand management and supply side options are being appraised. The Secretary of State asked the Applicant to:
- provide information setting out progress made in terms of securing a permanent water supply solution;
  - confirm if it would be possible for the proposed temporary desalination plant to permanently meet the full water supply demand for the lifetime of the Proposed Development, should no alternative water supply solution be identified;
  - to provide any further information to assist the Secretary of State in understanding the water supply strategy for the lifetime of the Proposed Development, and to provide information sufficiently detailed to enable the Secretary of State to understand and reach a reasoned conclusion on the cumulative environmental effects, including for Habitats Regulations purposes, of the different permanent water supply solutions.

- 4.30 The Applicant responded to the Secretary of State on 8 April 2022. The Applicant confirmed that it would be possible to extend the lifespan of the temporary desalination plant beyond the end of the construction phase, but that it has not been designed for permanent use and the Applicant would therefore consider alternatives to the current temporary design, including alternative marine outfall infrastructure solutions. The Applicant notes that impacts on the marine and terrestrial environment would require detailed assessment but would be unlikely to generate any materially new or different significant environmental effects (paragraph 2.2.8 of the Applicant's response). The Applicant considers the Secretary of State can be satisfied there is no in principle difficulty regarding a permanent desalination supply and that design options are available to achieve that should it be necessary (paragraph 2.2.11 of the Applicant's response).
- 4.31 The Applicant noted that, as confirmed in NWL's letter, the duties under the WIA mean that NWL will need to identify new water resources to meet the forecast demand, that NWL has included the demand from the Proposed Development in its WRMP24 Demand Forecast, and that options being tested include desalination. The Applicant notes that paragraph 9 of NWL's letter reiterates NWL's commitment to provide the Proposed Development's long-term water supply (paragraph 2.1.5 of the Applicant's response).
- 4.32 The Applicant advises that work on the draft WRMP24 is well advanced (paragraph 2.1.9 of the Applicant's response), that it is for this process to identify and determine the environmental acceptability of the options for supplementing the region's water supply, and that the Secretary of State may make a decision on the Application confident that the duty will be effectively satisfied (paragraph 2.1.11 of the Applicant's response). The Applicant also notes that NWL is in the early stages of completing an Integrated Environmental Assessment ("IEA") of its draft WRMP24 feasible options, which includes Strategic Environmental Assessment, Carbon Assessment, Habitats Regulation Assessment, Biodiversity Net Gain Assessment, Invasive Non-native Species Assessment, Natural Capital Assessment, and Water Framework Directive Assessment. The Applicant notes that any future supply to the Proposed Development will have been subject to these environmental assessments before being supplied (paragraph 2.13 of the Applicant's response).
- 4.33 The Applicant submits that it is because the long-term planning of water supply is subject to separate statutory provisions and processes that the identification of the source of the Proposed Development's long-term supply cannot be known at this stage (paragraph 2.1.16 of the Applicant's response). The Applicant highlights that the source may well change during the lifetime of the Proposed Development as the undertaker develops and manages its water resources in response to changing demand and other considerations. The Applicant considers that for the same reasons, and because on the evidence the source of the supply is unlikely to be a constraint to the construction and operation of the new power station, the source does not need to be known for the purposes of the Application (paragraph 2.1.16 of the Applicant's response). The Applicant cites NPS EN-1 as being clear that the decision-maker should work on the assumption that other regimes and regulatory processes will be

properly applied and enforced so that decisions on DCO applications should complement but not seek to duplicate other processes (paragraph 2.1.17 of the Applicant's response).

- 4.34 The Applicant states there is insufficient detail on the different permanent water supply solutions to enable the undertaking of any meaningful assessment of the various water supply solutions (paragraph 2.3.3 of the Applicant's response). The Applicant references Regulation 14(3)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, which states that the environmental statement must 'include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment.' The Applicant considers that the Secretary of State can be satisfied that the potential environmental impacts, including cumulative impacts, will be sufficiently assessed (paragraph 2.3.5 of the Applicant's response).
- 4.35 The Applicant considers that with regard to the HRA and specifically the assessment of in-combination effects, that WRMP24 would fall within the definition of a 'plan or project' in line with the guidance provided at paragraph 4.17 of the Planning Inspectorate's Advice Note 10 (paragraph 2.3.8 of the Applicant's response). The Applicant notes that this Advice Note recognises there may be limited information available on projects identified in development plans, which is similar to the case for the new supply schemes to be identified in WRMP24. The Applicant states that it is for this reason that any assessment of the options within the WRMP24 is most appropriately carried out through the WINEP process (paragraph 2.3.9 of the Applicant's response).
- 4.36 On 25 April 2022, the Secretary of State invited comments from IPs on the responses to his information requests. A number of responses raised concerns relating to the lack of certainty around the permanent water supply for the site and the possible impacts of the proposed desalination plant. Various responses noted that Suffolk has a limited water supply given that it is one of the driest regions in the country. Responses also highlighted the Applicant's previous decision to discount desalination in favour of alternative options for the permanent water supply. In particular, IPs have highlighted the Applicant's conclusion in January 2021, in Appendix 2.2.D Water Supply Strategy of the ES Addendum Volume 3 Chapter 2, that the installation of a modular desalination plant on the MDS and abstracting seawater for treatment was discounted in favour of alternative options due to concerns with power consumption, sustainability, cost, and wastewater discharge, with the Applicant noting that the desalination process is typically energy intensive and that the discharge of brine water as a result of desalination may not be suitable for discharge through the combined drainage outfall. The Secretary of State notes that in this same document, the Applicant noted that 'Essex and Suffolk Water has identified means to provide a viable supply of potable water to Sizewell C' with this option referred to as 'transfer of surplus potable water via a new pipeline from Barsham', demonstrating the Applicant's focus on the preferred mains transfer option via NWL at that time.

- 4.37 Various IPs raised concerns with the Applicant's response to paragraph 3.3. of the Secretary of State's letter of 18 March 2022 regarding whether the proposed temporary desalination plant could be made permanent. The MMO's response of 20 May 2022 noted no assessment has been undertaken on any proposals or options for a permanent desalination plant, and there is no assessment of any desalination plant operating in combination with the Proposed Development.
- 4.38 The MMO concurs with NE's comments provided to the Secretary of State on 7 April 2022 that any advice provided following Change 19 relating to the desalination plant effects were explicitly made on the assumption that the desalination plant would only be temporarily in operation during the construction phase of the project (for a maximum period of three years). The Secretary of State notes the Applicant responded to NE's comments advising that NE had misunderstood the proposed desalination plant and its operation. The Applicant noted the Fourth Environmental Statement Addendum – Volume 1 states at paragraph 3.2.20 that the desalination plant would initially be located in the main platform area, and that once the desalination plant becomes a physical constraint it would be relocated to the temporary construction area. The Applicant notes it was assumed this relocation would occur in approximately Year 4 of construction.
- 4.39 Other IPs also raised concerns regarding the possibility of the temporary desalination plant being made permanent. The joint response from Theberton & Eastbridge Parish Council, Middleton cum Fordley Parish Council, Stop Sizewell C, Minsmere Levels Stakeholders Group and B1122 Action Group states that the suggestion a desalination plant could remain north of the SSSI crossing, close to the proposed temporary desalination plant but placed underground, is unacceptable, and the infrastructure already proposed for this area would result in a permanent 25% loss of biodiversity over the long term. The response states that additional infrastructure, underground or not, immediately adjacent to protected sites, should not be allowed. Responses, including those from TASC, Suffolk Coastal Friends of the Earth, Walberswick Parish Council, Woodbridge Town Council, and Mr Paul Collins, also took issue with the Applicant's suggested siting options for a permanent desalination plant.
- 4.40 The joint response submitted by the RSPB and SWT raised concerns that the Applicant's proposed approach to the assessment of potential impacts of the extended use of a desalination plant does not comply with the requirements of the EIA or Habitats Regulations assessments. The response states that adequate assessments, especially of possible cumulative impacts for having a desalination plant for longer or the lifetime of the applications, is not provided. RSPB and SWT strongly disagree with the Applicant's view that the Secretary of State can be satisfied that the potential environmental impacts (including cumulative impacts) will be sufficiently assessed due to the WRMP24 process being the appropriate means of undertaking that assessment.
- 4.41 Other IPs, including Woodbridge Town Council, raised concerns regarding the case law referred to by the Applicant.



4.42 On 31 May 2022 the Secretary of State asked the Applicant to confirm if any further progress had been made in its discussions with NWL regarding a permanent water supply connection. The Applicant's response of 16 June 2022 confirms that NWL will submit its draft WRMP24 to the Department for Environment, Food and Rural Affairs ("DEFRA") in October 2022, in accordance with the deadline that must be met by all water companies under the prevailing WRMP24 and 2024 Price Review cycle. The Applicant states that NWL has confirmed that its draft WRMP24 will make full provision for the Proposed Development's long-term demand, and that subject to necessary approvals from DEFRA and the Water Services Regulation Authority ("Ofwat"), it is likely to be feasible to deliver the required infrastructure to supply the Proposed Development. The Applicant's response also notes that it has been agreed that negotiations under Section 55/Section 56 of the WIA will commence in October 2022, following publication of the draft WRMP24, in readiness for them to be signed once NWL's Business Plan has been approved by Ofwat, most likely in early 2024. The Applicant states that there is no reason to suppose that a new water supply scheme for a critical NSIP will not be approved in the 2024 Price Review, and there is every reason to expect that NWL, using reasonable endeavours, will be able to deliver the necessary infrastructure to make the permanent water supply connection before the end of construction of the Proposed Development.

*The Secretary of State's Consideration of Water Supply*

4.43 The Secretary of State has considered the supply of water during the construction period. He is satisfied with the Applicant's assurance that potable water will be supplied via a combination of tankers and a temporary desalination plant. The Secretary of State notes that the Applicant reaffirmed its commitments in the Water Supply Strategy for supply of non-potable water throughout the construction period. The Secretary of State is satisfied that there will be an adequate supply of both potable and non-potable water during the construction period and that the impacts of the water supply during the construction period have been properly assessed as part of this application and where relevant are considered elsewhere in this letter.

4.44 The Secretary of State has considered the Applicant's response to his questions on the matter of long-term water supply, as well as the comments submitted by IPs on this matter in light of the ExA's report. The Secretary of State notes that paragraph 8 of the letter from Walker Morris on behalf of NWL, of 23 February 2022, provides that, in addition to demand management options, NWL is also appraising other options that include (but are not limited to): an import from Anglian Water; nitrate removal at Barsham WTWs; effluent reuse and desalination; and longer term (post-2035) winter storage reservoirs. The Secretary of State considers that these represent potentially viable solutions for the water supply strategy as would the fall back of the Applicant's own permanent desalination plant if those solutions cannot be used. The Secretary of State is therefore content that if consent is granted for the development, there is a reasonable level of certainty that a permanent water supply solution can be found before the first reactor is commissioned.

- 4.45 With regard to the Applicant's case that the permanent water supply to be supplied by Essex & Suffolk Water/NWL will be assessed as part of the separate regulatory processes associated with WRMP24, the Secretary of State has considered the relevant policy. Paragraph 4.10.3 of NPS EN-1 (EN-1), states that the decision-maker *'should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes, including those on land drainage, water abstraction and biodiversity, will be properly applied and enforced by the relevant regulator. It should act to complement but not seek to duplicate them.'* This text is carried forward in paragraph 4.11.5 of the draft revision of EN-1.
- 4.46 Paragraph 5.15.4 of EN-1 states *'The considerations set out in Section 4.10 on the interface between planning and pollution control therefore apply. These considerations will also apply in an analogous way to the abstraction licensing regime regulating activities that take water from the water environment, and to the control regimes relating to works to, and structures in, on, or under a controlled water.'* This text is carried forward to paragraph 5.16.6 of the draft revision of EN-1. Paragraph 5.15.6 states that the decision-maker *'should also consider the interactions of the proposed project with other plans such as Water Resources Management Plans'*. This text is carried forward to paragraph 5.16.9 of the draft revision of EN-1.
- 4.47 The Secretary of State notes the EA's water resources planning guideline, updated on 4 April 2022<sup>7</sup>, which states that water companies in England or Wales must prepare and maintain an WRMP that sets out how a water company intends to achieve a secure supply of water for its customers and a protected and enhanced environment. This guideline notes that the duty to prepare and maintain a WRMP is set out in sections 37A to 37D of the WIA and that a water company must prepare a plan at least every 5 years and review it annually. Part 3.1 of this guideline details the legal requirements relevant to the preparation and publication of a WRMP, including the need to take account of relevant legislation including the Conservation of Habitats and Species Regulations 2017. Part 3.3.1 notes that statutory consultees for the WRMP process includes the EA, and also notes that if possible options affect a designated site in England then the water company must contact NE. Part 4.1.1 notes that a water company should carry out a HRA as part of the WRMP process, including an appropriate assessment, as set out in the Conservation of Habitats and Species Regulations 2017 (as amended), if a preferred plan would be likely to have a significant effect on a European site (either alone or in combination with other plans or projects).
- 4.48 The Secretary of State notes the policy in Section 4.2 of EN-1. Paragraph 4.2.7 acknowledges that *'In some instances, it may not be possible at the time of the application for development consent for all aspects of the proposal to have been settled in precise detail.'* This text has been carried forward to paragraph 4.2.5 of the draft revision of EN-1.

---

<sup>7</sup> EA, Natural Resources Wales, and Office for Water Services, Water resources planning guideline (updated 4 April 2022), <https://www.gov.uk/government/publications/water-resources-planning-guideline/water-resources-planning-guideline>

- 4.49 The Secretary of State considers that the Proposed Development and the WRMP24 process for the sourcing of water are separate projects. This is evident from their separate ownership and because they are subject to distinct and asynchronous determination processes. The Secretary of State also considers that these projects are stand-alone, given that NWL has a duty to undertake its WRMP24 regardless of whether or not the Proposed Development proceeds.
- 4.50 The Secretary of State has considered the ExA's view [ER 7.5.7] that, even if the Proposed Development and the water supply are considered to be two separate projects, the cumulative effects associated with it should be assessed at this stage. As set out below, the Secretary of State has considered the cumulative assessment of the proposed pipeline from the North/Central WRZ and agrees with the Applicant's assessment that the pipeline is not likely to give rise to new or significant effects to those already identified in the ES. In addition, the Secretary of State agrees with the Applicant that the detail of the potential environmental impacts (including cumulative impacts) associated with the proposed permanent water supply to be provided by NWL will be sufficiently assessed and that the WRMP24 process is the appropriate means of undertaking that assessment. The Secretary of State agrees that further detailed assessment cannot be undertaken by the Applicant at this stage as the preferred option for long-term supply is not yet known given the current status of the separate WRMP24 process, which falls to be considered as a separate plan or project. The Secretary of State considers that it is because the long-term planning of water supply is subject to separate statutory provisions and processes, including those set out in paragraph 4.47 above, that the identification of the source of the Proposed Development's long-term water supply cannot be known by the Applicant at this stage.
- 4.51 The Applicant's original and preferred water supply connection was a direct link from Barsham and the Applicant provided information about this, the cumulative effects of its preferred water supply solution of in Table 1.1 of the ES Addendum, Volume 3, Chapter 2, Appendix 2.2.D Water Supply Strategy submitted in January 2021. This refers to potable water transfer options and envisages that a supply of potable water via a direct link from Barsham would be provided by Essex and Suffolk Water. Table 1.1 notes that the provision of this link does not form part of the Application, however it provides a cumulative assessment of the Proposed Development with this link at Chapter 10 of the ES Addendum at paragraphs 10.4.229-10.4.250. The cumulative assessment states that "it is proposed that the detailed route alignment of the pipeline will follow existing roads and boundaries where possible" and that "it is anticipated that the earthworks for the cut and fill, and the pipelaying task for the preferred water supply proposal will progress quickly along the route and works would only impact upon a single receptor for a small number of days at most". In relation to Terrestrial ecology and ornithology it finds that "Given the footprint of the works and the proposed locations for working, ecological impacts would be minimal and avoidable or mitigable" and for all the other impacts assessed concludes that "no significant cumulative effects are anticipated in relation to the preferred water supply proposal and there would be no change to the residual cumulative effects as presented in Volume 10, Chapter 4 of the ES".

- 4.52 The Secretary of State has seen no subsequent evidence to suggest that anything has changed in that regard. The Secretary of State is satisfied that, based on current knowledge, there are no additional cumulative impacts if the Barsham pipeline were to be pursued. The Secretary of State has considered the information provided by the Applicant on cumulative effects and does not agree with the ExA's criticisms and considers there is sufficient information on which he can base his conclusion.
- 4.53 Section 3.2.3. of the revised Water Supply Strategy submitted at Deadline 7 in September 2021 stated that 'there is some potential spare capacity in the WRZ at NWL's Barsham Water Treatment Works near Beccles which is located in their Northern /Central WRZ, from which water is proposed to be transferred to Sizewell via a 28km pipeline. This transfer will also require other water network enhancements, which NWL are currently investigating. The proposed transfer main would connect into the local Blyth distribution network at Saxmundham Water Tower, and at other locations subject to detailed design. These local connections have the potential to provide significant legacy benefit by increasing capacity and resilience of the distribution network.'
- 4.54 The Statement of Common Ground agreed between NWL and the Applicant records that the proposal to transfer water from Barsham relies on abstraction from the River Waveney and its associated Waveney Augmentation Groundwater Scheme (WAGS) operated by the EA. It further records that on 26 August 2021 the EA informed NWL that a sustainability reduction may be applied to NWL's abstraction licence for the River Waveney and WAGS abstraction licenses which could reduce NWL's allowable annual quantities of abstraction by up to 60% and that further modelling work is being carried out by NWL to investigate this.
- 4.55 The Secretary of State further notes the letter from Walker Morris on behalf of NWL on 23 February 2022 states that NWL will not be able to supply all forecast household and non-household demand, including the Proposed Development's long-term demand, from existing water resources, and that NWL will need to identify new water resources to meet the forecast demand. The Secretary of State notes that the letter states that in addition to demand management options, NWL is appraising options including (but not limited to) nitrate removal at Barsham WTWs to reduce raw water quality driven water treatment works outage. While noting that the ultimate source of supply has yet to be identified by NWL, the Secretary of State considers that the information provided demonstrates sufficiently, in principle, the viability of a mains connection pipeline to the Proposed Development if some or all of the supply were able to come from that location.
- 4.56 The Secretary of State is satisfied that if NWL, through the regulatory processes associated with the WRMP24, put forwards a solution to the supply of potable water supply which requires a change to the pipeline connection to the Proposed Development (once it has established where it will source the water for the Proposed Development from) any such solution will be subject to its own environmental assessments, including those under the HRA. The Secretary of State has not seen any information at this stage to suggest that a different pipeline connection (if it were to be required) would not be viable or its impacts

unacceptable. However, this will be for NWL to assess once the source of the permanent water supply is known.

- 4.57 The Secretary of State notes that any such pipeline or connection will be applied for separately to the Proposed Development once there is certainty around its route and specification.
- 4.58 As set out above, the Secretary of State does not have detailed information as to the route or specification of the pipeline that would convey water to the Proposed Development given that it is subject to the outcome of the WRMP24 process which has not yet been completed. However, the Secretary of State considers that he has sufficient information for the purposes of taking a decision on the Proposed Development to conclude that there is the potential for a viable connection to be provided in principle. The Secretary of State considers that if the pipeline connects to a supply at Barsham it is not likely to give rise to significant environmental effects additional to those already identified in the Environmental Statement, but this will also fall to be re-examined and be subject to assessment once any such pipeline connection is finalised. If a different solution is required, then any such different solution will need to be the subject of its own assessments in due course.
- 4.59 The Secretary of State notes that in light of the matters identified above it is not possible for the Applicant to provide more specific details regarding the route or specification of the pipeline, or other connection, that will provide the Proposed Development with a connection to the water main or water supply at this stage, and notes that such a pipeline or alternative connection does not form part of the Application. This is due to the fact that the specific details of the route remain unknown until NWL identifies the source of the water that the pipeline will connect the Proposed Development to. The Secretary of State considers that such a pipeline or alternative connection cannot be subject to more detailed assessment as part of this Application given it is subject to the WRMP24. The Secretary of State notes that whilst the Water Supply Strategy submitted in January 2021 identified that the pipeline between Barsham and the Proposed Development did not form part of the Application, a cumulative assessment of the Proposed Development with that pipeline was undertaken, and that the Application was accepted on that basis. The Secretary of State agrees that in light of the present state of knowledge, it is not possible for the Applicant to conduct any meaningful assessment of any different solution to emerge from the WRMP24 process but that any such different solution will necessarily be subject to its own assessment before it can proceed.
- 4.60 The policy set out in NPS EN-1 is clear that a decision-maker should work on the assumption that relevant environmental regulatory regimes, including the abstraction licencing regime regulating activities that take water from the water environment, will be properly applied and enforced by the relevant regulator, and that a decision-maker should not seek to duplicate these regimes. The policy is also clear that the decision-maker should have regard to the interaction between the proposed project and other plans, and references Water Resource Management Plans as a specific example of such plans. The Secretary of State notes the acknowledgement in Section 4.2 of EN-1 that it is not always possible for all aspects of a proposal to be settled in precise detail. The fact that there is

a lack of detailed information available regarding the source of a permanent water supply via NWL means that it is not possible for the Applicant to have assessed the effect, including the cumulative effects of all of the potential means of conveying water to the Proposed Development. The WRMP process is conducted by the water company and is not something that the Applicant can dictate. If (and only if) the WRMP process fails to provide a solution, the Applicant will have to consider its own permanent desalination plant.

- 4.61 The Secretary of State notes the concerns raised by IPs regarding the prospect of a permanent desalination plant. The Secretary of State agrees with the Applicant that further detailed assessment of the impacts associated with a permanent desalination plant would be required if the Applicant were ultimately to pursue this option as part of its water supply strategy which is not the current intention. The Secretary of State has not requested further detailed assessment from the Applicant of this option given that it does not form part of the Proposed Development and the Applicant's position is that a bespoke permanent desalination plant for the Proposed Development is unlikely to be required. The Secretary of State notes the Applicant's position that a permanent desalination plant is not likely to generate any materially new or materially different significant environmental effects on the marine environment (see paragraph 2.2.8 of the Applicant's response to the Secretary of State's letter of 18 March 2022) and on the terrestrial environment (see paragraph 2.2.10 of the Applicant's response to the Secretary of State's letter of 18 March 2022). The Secretary of State has also considered the concerns raised by IPs regarding the fact that the Applicant had previously discounted desalination from its water supply options. The Secretary of State notes that the revision 1.0 of the Applicant's Water Supply Strategy produced in May 2020 noted that benefits of desalination include potentially short lead times with equipment available for hire, and that it could be useful for temporary top-ups or in times of drought. The limitations of desalination were listed as 'desalinated water being aggressive in pipe network and may require remineralisation'.
- 4.62 The Secretary of State acknowledges (above) that the Applicant's conclusion in January 2021, in Appendix 2.2.D Water Supply Strategy of the ES Addendum Volume 3 Chapter 2, was to discount the installation of a modular desalination plant on the MDS and the abstraction of seawater for treatment and notes that the Applicant also stated in the same document that Essex and Suffolk Water had 'identified means to provide a viable supply of potable water to Sizewell C' with this option referred to as 'transfer of surplus potable water via a new pipeline from Barsham'. This reflected the Applicant's position that a new mains pipeline is preferable to a permanent desalination plant.
- 4.63 The Secretary of State notes that revision 2.0 of the Water Supply Strategy published in September 2021 sets out the important role that a temporary desalination plant would play in the overall strategy. The Secretary of State acknowledges that the Applicant's position on desalination has therefore changed between January 2021 and September 2021 as a result of new information becoming available to the Applicant regarding the preferred mains connection via NWL. The Secretary of State is content that it is reasonable for the Applicant to rely on revision 2.0 of the Water Supply Strategy submitted during the Planning Inspectorate's examination of the Proposed Development

in light of the new information that became available via NWL in terms of the important role that a temporary desalination plant would play in the overall strategy. The Secretary of State considers that if, contrary to expectation, the Applicant were to seek to provide water from a permanent desalination plant, that would require its own consent and would be subject to further detailed assessment at that stage before it could proceed. Accordingly, for essentially the same reasons as identified above in respect of the other potential solutions to the supply water strategy, the Secretary of State does not consider it necessary for the effects of any such solution to be assessed in more detail as a permanent desalination plant does not form part of the Proposed Development and the Applicant is not relying on it as an integral part of the Proposed Development.

- 4.64 The Secretary of State notes and agrees with the position of the ONR that in order to fulfil the Licence Conditions of any nuclear site licence necessary to operate the power station, the Applicant will have to put in place a reliable source of water before any nuclear safety related activities can take place that are dependent on such a supply. Accordingly, the Secretary of State is satisfied that the issue of a sustainable water supply solution will be subject to control through the nuclear site licence application and a reliable source of water will need to be demonstrated before any nuclear safety related activities can take place. The Secretary of State notes that NWL has included the demand from the Proposed Development in its WRMP24 Demand Forecast and NWL remains committed to providing the Proposed Development with a long term water supply and is therefore satisfied that there is a requisite degree of confidence that a long term solution is deliverable, that any such long term solution will be subject to its own environmental assessment, including any required under the Habitats Regulations, which will consider cumulative and in-combination effects before it can proceed, and that the ability to deliver that solution will need to be demonstrated to fulfil the Licence Conditions of any nuclear site licence to enable the Proposed Development to generate power.
- 4.65 In relation to the Habitats Regulations, the Secretary of State does not agree with Natural England that the source of any permanent water supply is, in itself, integral to the application. There will need to be a permanent water supply solution and the Secretary of State is satisfied that such a solution can be found before the first reactor is commissioned. However, the Secretary of State does not consider that the source of that supply is an integral part of this application. There is no current certainty as to the final source of the permanent water supply, which does not need to be in place until the early 2030s. The Applicant has carried out a cumulative assessment of the potential pipeline route from Barsham/the North/Central WRZ which identifies that this will result in no new or different significant cumulative effects. However, it is not currently known whether this or some other means of connecting the development to the water supply network will be required and this is something that will only become known through the WINEP process. The Secretary of State agrees with the position of the Applicant that an assessment of the Habitats Regulations implications of the proposed permanent water supply solution will be undertaken by NWL. The Secretary of State does not agree with NE that any such assessment is likely to miss or underplay any effects of any kind, including any cumulative or in-combination effects.

- 4.66 In the unlikely event that NWL can find no solution, then the Applicant has confirmed that it would seek to take forward its own solution of the construction of a permanent desalination plant. As already noted, this in itself would require a further application, either to amend the DCO or for another form of planning consent and such an application would similarly trigger the requirement for the necessary environmental assessments including any required under the Habitats Regulations. Such assessment would consider the proposed permanent water supply solution in combination with the Proposed Development and address any cumulative effects.

#### *Overall Conclusion on Water Supply*

- 4.67 The Secretary of State is satisfied that the Applicant has established an acceptable water supply strategy for the construction period. The Secretary of State is also satisfied that a long-term water supply is viable and that any proposed water supply solution to be supplied by NWL will be properly assessed under the WRMP24 process and/or other relevant regulatory regimes and considers that no further information is required regarding the proposed water supply solution for a decision to be taken on the Application.
- 4.68 The Secretary of State therefore disagrees with the ExA's conclusions on this matter and considers that the uncertainty over the permanent water supply strategy is not a barrier to granting consent to the Proposed Development.
- 4.69 The Secretary of State considers that the matter of the water supply does not weigh for or against the Order being made, and attributes this matter neutral weight in the overall planning balance.

#### Agriculture and Soils

- 4.70 The Secretary of State notes the ExA's consideration of the relevant policy, including the requirements set out in paragraph 5.10.8 of NPS EN-1 and paragraph 3.8.3 of NPS EN-6, the relevant legislation and policy, and the guidance relevant to soils and agriculture as set out in Appendix 6M of the EIA Methodology, and Chapter 15 of the NPPF [ER 5.2.2 et seq.].
- 4.71 The Applicant's assessment of effects on soils and agriculture at the MDS is set out in the Environmental Statement ("ES") Volume 2, Chapter 17. The Code of Construction Practice ("CoCP") submitted as part of the Application contains the outline Soil Management Plan ("oSMP"), provides details of the methodology, control measures and monitoring programme for the site preparation and reinstatement work phases of the Proposed Development.
- 4.72 The Applicant made a commitment to update the oSMP in respect of several points made by NE but the oSMP was not updated in line with this commitment [ER 5.2.51]. The Secretary of State therefore issued a letter to the Applicant on 31 March 2022 requesting the submission of a final version of the oSMP to reflect the points raised by NE. The Applicant provided an updated oSMP to reflect the areas identified for further amendment by NE in [REP7-140 and [REP7-144] as set out in the response to ExQ3 question 3.1 [REP8-116]. This followed discussions with and consultation responses received from NE and the National Farmers Union ("NFU"). On 25<sup>th</sup> April the Secretary of State invited



comments from IPs on the responses to his letters. No further comments were received. Having considered the updated oSMP the Secretary of State is satisfied that this has been addressed.

- 4.73 The Applicant also submitted an outline Landscape and Ecological Management Plan (“oLEMP”) which seeks to provide clear objectives and general principles for the establishment and longer-term management of the landscape, and ecological mitigation proposals identified for the MDS following construction [ER 5.2.11 et seq.]. Landscape and Ecological Management Plans were also submitted for the Two Village Bypass and the Sizewell Link Road. Part 2 of the DAS contains an earthworks and soil strategy. The Applicant has set out primary mitigation measures for the MDS, as well as additional tertiary mitigation measures in Table 9.1 of Part B of the CoCP, which sits alongside the oSMP [ER 5.20.20 et seq.].
- 4.74 The Examination considered Agricultural Land Classification (“ALC”) Surveys [ER 5.2.27 et seq.], the Agricultural Liaison Officer [ER 5.2.44 et seq.], Outline Soil Management Plan [ER 5.2.49 et seq.], Soil Contamination [ER 5.2.54 et seq.], Stockpiles [ER 5.2.59 et seq.], Drainage and Irrigation [ER 5.2.78 et seq.], Livestock [ER 5.2.87 et seq.], and Mitigation for Landowners [ER 5.2.94 et seq.]. The ExA concluded that no matters relating to these issues would weigh against the Order being made. The Secretary of State agrees with the ExA’s conclusions on this matter.
- 4.75 The issues of Best and Most Versatile (“BMV”) is considered at [ER 5.2.35 et seq.]. The ExA attributes little weight to matters relating to the effect on BMV land against the Order being made [ER 5.2.43]. With regards to Land Creation, Enhancement and Restoration [ER 5.2.68 et seq.] the ExA attributes little weight for the Order being made [ER 5.2.70]. Matters in relation to Severance were also considered during the Examination [ER 5.2.71 et seq.]. The ExA attributes little weight to matters relating to this issue against the Order being made [ER 5.2.77]. The Secretary of State agrees with the ExA’s conclusions on these matters.

#### *Soil Resources*

- 4.76 The ExA is satisfied the Applicant undertook a robust assessment of soil quality and resources, and is satisfied that in light of the potential for invasive weed species to grow within the site appropriate management regimes detailed within the CoCP will adequately address weed growth that might threaten adjoining agricultural land [ER 5.2.231 et seq.]. The ExA considers that the content of Requirement 2, which (along with the CoCP) secures the provisions of the final SoMP, and Requirements 24, and 36, which secure the LEMPs, are adequate to ensure no significant adverse effects on soil resources from the Proposed Development [ER 5.2.233]. The ExA is satisfied the measures and procedures detailed in the final SoMP would ensure adequate protection of soil function, which would enable their re-use in the restoration of the site, and where appropriate return to pre-construction agricultural use [ER 5.2.234].
- 4.77 The Applicant has actively promoted the creation of new species-rich semi-natural landscape habitat as a benefit of the Proposed Development, and the ExA agrees [ER 5.2.236] this would represent a benefit in respect of both

biodiversity and landscape character, and attributes moderate weight to this matter for making the Order. The Secretary of State agrees with the ExA's conclusions on this matter.

#### *Effect on Landholdings*

- 4.78 The ExA considered the effects on each individual landholding. The ExA advises that considerations of design, consultation with landowners, agri-environment schemes, reinstatement of agricultural land, and operational phase management should be taken as relevant to all land holdings [ER 5.2.99]. The ExA is satisfied site designs were optimised to reduce overall land take and to reduce potential access severance where possible, the Applicant has made proportionate efforts to reduce impacts on farm businesses, the total loss of land under agri-environment schemes would not be substantial, the approach to the reinstatement of agricultural land complies with the relevant policy of NPS EN-1, and the approach to operational phase management is appropriate and would minimise the risk of the establishment of weeds and weed growth that might threaten any adjoining agricultural land [ER 5.2.99].
- 4.79 Whilst the ExA concludes that little harm was identified in respect of the majority of landholdings, some moderate adverse effects were identified [ER 5.2.239]. In relation to the MDS, the ExA attributes moderate weight to matters relating to Old Abbey Farm, given that just under 60% of the holding would be required, albeit on a temporary basis [ER 5.2.108 et seq.]. The ExA also notes with regard to the effects of the SLR on the landholdings of Kelsale Manor [ER 5.2.139 et seq.], Fordley Hall Farm [ER 5.2.145 et seq.], and Trust Farm [ER 5.2.158 et seq.], moderate adverse effects were identified, given the issue of severance that arises as a result of the SLR at these holdings. The ExA concludes that assurance was not given that appropriate access to and from these land holdings would be provided [ER 5.2.239]. However, the ExA is content that measures within the CoCP and oSMP, where practicable, would provide adequate levels of mitigation and minimise adverse effects, any potential effects on landholdings would be necessary to allow for the construction and, where relevant, the operation of the Proposed Development [ER 5.2.240].
- 4.80 As a result of the permanent loss of land at the Piggeries as a result of the Yoxford Roundabout, with the percentage of the holding required bringing the viability of the land holding into question, the ExA attributes moderate weight to matters relating to this landholding against the Order being made [ER 5.2.183 et seq.]. With regard to the temporary rail extension, and its impact on the Aldhurst Farm Cottages the ExA also attributed moderate weight to matters related to this landholding against making the Order [ER 5.2.196 et seq.]. The Secretary of State agrees with the ExA's conclusion on this matter.
- 4.81 The ExA concludes that when considered together, the effect on landholdings should be given little weight against making the Order [ER 5.2.241]. The Secretary of State agrees with the ExA's conclusion on this matter.

### *Cumulative Effects*

- 4.82 Volume 10, Chapter 3 of the ES details the assessment findings regarding project-wide effects where environmental impacts from different components of the Proposed Development combine, resulting in the potential for a significant cumulative effect [ER 5.2.212]. The following effects were assessed to be significant at the project-wide scale: the temporary loss of BMV land during the early years of construction, the permanent loss of BMV land during the early years of construction, and the temporary loss of agricultural land during the early years of construction [ER 5.2.213].
- 4.83 The ExA notes that whilst project wide effects would be significant adverse, it is satisfied suitable measures would be employed through the oSMP to ensure that BMV land required temporarily is restored appropriately [ER 5.2.214]. Similarly, project wide effects for the permanent loss of BMV land would be significant adverse. However, the ExA considers the total permanent loss of BMV land would be relatively modest, with the majority of the BMV land permanently lost within subgrade 3b which represents poorer quality BMV land [ER 5.2.215]. With regard to the temporary loss of agricultural land during the early years of construction, the ExA agrees that, as the majority of land would be under arable production, this is a receptor of low sensitivity, and that although adverse significant effects are reported within the assessment, the land would be reinstated by the end of the removal and reinstatement phase [ER 5.2.216]. The ExA considers any temporary effect on the landholdings would be necessary to allow for the construction, and, where relevant, the operation of the Proposed Development. The ExA is content [ER 5.2.217] that whilst the project wide effects have been assessed as significant, the primary and tertiary mitigation measures proposed have been designed to reduce effects on soil resources and agricultural holdings as far as is reasonably practicable, and [ER 5.2.218] the Applicant has given appropriate consideration to project-wide effects regarding soils and agriculture. The ExA attributes little weight to project-wide effects against making the Order [ER 5.2.219]. The Secretary of State agrees with the ExA's conclusion on this matter.
- 4.84 The ExA concludes that the Applicant has sought to minimise impacts on BMV land where possible, and, in line with the test in NPS EN-1, gives limited weight to the loss of poor-quality agricultural land of ALC Grade 3b [ER 5.2.238]. The ExA attributes little weight to the effect on BMV land against making the Order. The Secretary of State agrees with the ExA's conclusion on this matter.
- 4.85 The relevant ES chapters anticipate the potential for inter-relationship effects between geology and land quality, landscape, noise, air quality and ground water and surface water, in relation to the potential receptors which could be impacted by ground contamination, poor ground conditions, and noise or dust, with potential impacts possibly including contamination of soils, silt-laden runoff, noise disturbance and dust [ER 5.2.220]. The ExA notes that the CoCP contains a range of measures to reduce the risk of dust impacts, runoff, erosion, pollution, impacts from noise on adjacent receptors, and the risk of hydrological or hydrogeological changes on agricultural land [ER 5.2.221]. The ExA is content that, as the oSMP and SoMP will confirm how soils will be stripped, stockpiled and reused, to ensure they are suitable for the required end use, and

these control measures, combined with mitigation measures proposed in relation to other disciplines, will result in minor inter-relationship effects which are not significant [ER 5.2.222 et seq.]. The ExA is satisfied the Applicant has addressed how the individual environmental effects of the Proposed Development combine with one another in respect of possible effects on a single receptor, and attributes little weight to matters relating to inter-relationship effects against making the Order [ER 5.2.224 et seq.]. The Secretary of State agrees with the ExA's conclusion on this matter.

- 4.86 Section 4.22 of Volume 10 of Chapter 4 of the ES confirms that most effects experienced by receptors as a result of the construction, operation, and, where relevant, removal and reinstatement, of the Proposed Development would not increase when considered cumulatively with the identified non-Sizewell C schemes [ER 5.2.227]. The only cumulative effect found to be greater in combination with non-Sizewell schemes than for the Proposed Development alone, in respect of soils and agriculture, relates to the spread of invasive weeds during the peak years of construction, however no further mitigation is proposed as the effects are assessed to be minor adverse and therefore not significant [ER 5.2.228]. The ExA considers the Applicant has satisfactorily addressed the assessment of cumulative effects of the Proposed Development and sufficient consideration has been given to how the accumulation of effects might affect soil and agriculture matters as a whole [ER 5.2.229]. The ExA therefore attributes little weight to matters relating to cumulative effects with other plans, projects and programmes against the Order being made [ER 5.2.230].
- 4.87 The Secretary of State agrees with the ExA's conclusions on cumulative effects.

#### *Compliance with Other Policies*

- 4.88 The ExA concludes that the Applicant has given appropriate consideration to the protection of soils in accordance with Chapter 15 of the NPPF, that this is demonstrated in the mitigation measures contained in the CoCP and the oSMP, and it is satisfied that the design of the MDS and the associated development sites have been optimised to reduce the overall land take where practicable [ER 5.2.242]. Additionally, the ExA is content that, in respect of Policy SCLP10.3 of the East Suffolk Coastal Local Plan, appropriate measures would be secured via the CoCP and the oSMP to reduce and, where necessary, manage land contamination [ER 5.2.243].

#### *Overall Conclusion*

- 4.89 Overall, the ExA concludes that, in weighing the identified harm against the public benefits, the benefits of the Proposed Development would be moderate [ER 5.2.244]. Overall, the ExA ascribes little weight to matters relating to agriculture and soils against making the Order.
- 4.90 The Secretary of State notes the ExA's conclusion on this matter that it has weighed the identified harm against the public benefits and has concluded that the benefits would be moderate. In light of that conclusion, the Secretary of State does not consider that any weight should be ascribed against making the

Order. Instead he considers that no weight should be ascribed for or against the making of the Order in relation to this matter. However, the Secretary of State notes that even if he were to agree with the ExA's conclusion that little weight against making the Order should be ascribed, this would not affect the decision in the overall planning balance.

### Air Quality

- 4.91 The ExA sets out the relevant policy considerations including paragraph 4.10.2 of NPS EN-1 on the different functions of the planning and pollution control systems in relation to air quality matters; paragraph 4.10.3 states that the Secretary of State is required to focus on whether the project itself is an acceptable use of the land and on the impact of that use, rather than the control of processes, emissions or discharges themselves [ER 5.3.2 et seq]. It also indicates that the Secretary of State is entitled to assume that relevant pollution control and environmental regulatory regimes will be properly applied and enforced and that the Secretary of State should seek to complement but not duplicate them.
- 4.92 Paragraph 5.2.1 of NPS EN-1 acknowledges infrastructure development can have adverse effects on air quality [ER 5.3.4]. The ExA references paragraph 174 [ER 5.3.11] and paragraph 186 of the NPPF [ER 5.3.12] and the relevant Suffolk Coastal Local Plan policies [ER5.3.13 et seq.].
- 4.93 The Applicant's case and assessment of impacts on air quality is set out in ES Chapter 12 and covers the effects that arise from the construction and operation of the proposed Sizewell C power station at MDS [ER 5.3.17 et seq.]. The assessment has been informed by a number of technical assessments supported by a number of technical appendices for the MDS [ER 5.3.17 et seq.].
- 4.94 Following the acceptance of the first change request a series of additional submissions were made to cover the potential changes in air quality impacts, with amendments and additional information to update air quality modelling of transport emissions [ER 5.3.19 et seq.]. Updated information took into account DEFRA's new version of Background Concentration Maps in August 2020 with conversion tools used to update the assessment [ER 5.3.22]. Sensitivity testing was also undertaken at Stratford St Andrew Air Quality Management Area ("AQMA").
- 4.95 The Fourth ES Addendum Volume 1 Appendix 2.C updated the transport chapter to take account of the proposed desalination plant in Change 19. An additional assessment of air impact from the proposed desalination plant was also provided. The ES draws on The Air Quality Standards Regulations, guidance from the United States Environmental Protection Agency AP42 and the Institute of Air Quality Management ("IAQM") guidance on construction dust (2016) [ER 5.3.23 et seq.]. The Outline Vessel Management Plan provides an indication of the preferred routing and approximate number of vessels for the Marine Bulk Import facility ("MBIF"). A number of primary mitigation measures have been identified through the EIA process and have been incorporated into the design and construction planning [ER 5.3.30]. The ES was updated through

the Examination to address the changes sought and to refine information particularly in respect of traffic modelling.

- 4.96 The Applicant's scope of assessment is set out as the ES Chapter on Air Quality [ER 5.3.33 et seq.] and a summary table of study area for emissions is provided at Table 5.3.01 [ER 5.3.36]. The approach was agreed with East Suffolk Council ("ESC") and followed the scoping opinion submitted to the Planning Inspectorate carried out at the pre-application stage [ER 5.3.39]. The Applicant has included a series of management documents to deliver the mitigation proposed including the Construction Workforce Travel Plan ("CWTP"), Construction Traffic Management Plan ("CTMP"), Outline Dust Management Plan ("oDMP") and CoCP, all secured by the Order or the Deed of Obligation ("DoO") [ER 5.3.46].
- 4.97 The baseline conditions [ER 5.3.47 et seq.] and future baseline [ER 5.3.55 et seq.] are set out with Construction Phase Effects [ER 5.3.56 et seq.] and Operational Impacts related to the Back Up Diesel Generators and ecological sites is reported [ER 5.3.76 et seq.]. Potential air quality impacts on designated ecological sites are considered in Chapter 14 of the ES, and in the Biodiversity and Ecology Terrestrial and in Habitats Regulations Assessment ("HRA") sections (insofar as they relate to HRA matters), of this letter [ER 5.3.85]. The Applicant indicates that there are unlikely to be any significant effects on human health receptors due to construction dust emissions, transport emissions, or other on-site emissions with appropriate mitigation in place [ER 5.3.86]. The potential for significant effects from the off-site developments (marsh harrier habitat improvement area west of Westleton, Fen meadow compensation areas to the south of Benhall and to the east of Halesworth and the off-site sports facilities) were screened out of the assessment [ER 5.3.87].
- 4.98 In the event of an emergency which resulted in the loss of off-site power the operation of the diesel generators would, under worst case scenario conditions, exceed the air quality standard for NO<sub>2</sub> with the potential for significant short-term effects on human health receptors. This is in the event that the use of diesel generators coincided with meteorological conditions that lead to exceedance of the air quality strategy objective [ER 5.3.88]. The Applicant concluded that this eventuality would be expected to occur about once in the lifetime of a fleet of nuclear sites and therefore the potential for air quality effects from this source is considered to be not significant [ER 5.3.89].

#### *Quality of Assessment*

- 4.99 The ExA notes the concerns raised in RRs with regard to PM<sub>2.5</sub> and ozone [ER 5.3.92 et seq.]. The effect of seasonal, meteorological and climate change impacts on air pollution were also raised. Together Against Sizewell C ("TASC") made a number of submissions on air quality, expressing their detailed concerns about the methodology used, including the challenges with accurately monitoring air pollution and being able to assess the source of the pollution. They sought specific standards of data to be used and made publicly available so that any effects could be held to scrutiny and properly enforced if necessary. The ExA considers that criticisms of Government policy to achieve binding targets for air quality and the adequacy of measuring PM<sub>2.5</sub> went significantly

beyond the scope of the Examination, but there were other criticisms of the Applicant's data collection, data interpretation, over reliance on modelling, as opposed to data gathering, and that results were only indicative [ER 5.3.95 et seq.].

- 4.100 IPs additionally did not consider that ozone had been properly or fully considered and that the implications of high ozone on human health had not been properly addressed. ESC confirmed it was satisfied the approach and methodology were appropriate and all potential sensitive receptor locations have been satisfactorily represented with worst-case locations [ER 5.3.98]. Concerns remained that details regarding Non-Road Mobile Machinery ("NRMM") such as generators had not been finalised, so uncertainties regarding worst-case impacts remain. Subject to the resolution of points raised in the Local Impact Report ("LIR") [REP1-045], ESC considers that emissions to air would not have significant adverse effects on the health of ESC residents or the health of construction and operational phase workforce in relation to the potential effects of ambient air quality [ER 5.3.99].
- 4.101 ESC considers that the geographical distribution of particulate matters and emissions to air during both construction and operation are adequately described in the ES except as outlined in the LIR [ER 5.3.101]. ESC advised during the Examination the Applicant has adopted best practice guidance and gone beyond this to assess construction dust and particulate impacts to identify appropriate mitigation [ER 5.3.102], except as noted in the LIR. ESC agreed that there is a growing body of evidence linking adverse effects on health to exposure to low levels of PM<sub>2.5</sub> but does not consider there is a strong case to require consideration of a wider range of air quality standards and guidelines other than those addressed.
- 4.102 During the Examination the EA advised that the role of its permit was to only allow activities that will not cause any significant effect on human health. The permit determination would provide an indication if off site monitoring may be necessary, which would be a matter for ESC to decide [ER 5.3.106]. Views were also sought on this issue from the UK Health Security Agency ("UKHSA"), formerly Public Health England ("PHE"). The Statement of Common Ground ("SoCG") with PHE sets out that professional judgement has been applied, supported by evidence from the assessment and reinforced by adopting a precautionary approach with all residential receptors regarded as sensitive. The evidence shows that the relative change in concentration exposure of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> are significantly below the level where a quantitative exposure assessment would be required [ER 5.3.110]. During the Examination the ExA sought view of IPs on the adequacy of methodology of assessment and if these could be regarded as achieving the highest environmental standards both during construction and subsequent operation. ESC agreed that the assessment methods had been appropriate to meet the highest standards [ER 5.3.112]. The ExA [ER 5.3.114] considers the ES has utilised the IAQM Design Manual for Roads and Bridges and the Air Quality Advisory Group technical guidance on detailed modelling for assessment of emissions to air. The ExA concludes [ER 5.3.115] it is satisfied that the Applicant's assessment of air quality within the ES is in line with industry standards, has been endorsed

by ESC, and reasonably reflects the likely effects that would arise. The Secretary of State agrees with the ExA's conclusions on this matter.

#### *Effects on AQMAs*

- 4.103 ESC and Suffolk County Council ("SCC") in the joint LIR [REP1-045] expressed concern about the Stratford St Andrew AQMA [ER 5.3.117]. The Councils sought additional controls on the standards the Heavy Goods Vehicle ("HGV") fleet would comply with and caps on the most polluting vehicles [ER 5.3.118]. The Applicant committed to all road vehicles complying with Euro VI emission standards unless it fell into an exempt category [ER 5.3.119]. Any exempt vehicle must meet Euro V standards where possible, and where not achieved must be agreed with ESC and the Transport Review Group ("TRG") secured within the CoCP. ESC confirmed in their SoCG along with the mitigation in place as set out they are satisfied that the Stratford St Andrew and Woodbridge AQMAs have been adequately assessed and characterised and through the proposed control and mitigation measures no significant effects or policy compliance issues would arise at either AQMA [ER 5.3.122].
- 4.104 A revised version of the Traffic Incident Management Plan ("TIMP") [REP2-053] was provided and is included in the DoO Annex M [REP10-079]. The ExA [ER 5.3.126] is satisfied that the TIMP demonstrates that traffic from the Proposed Development would not be diverted through Woodbridge in the event of an incident. It concludes that with mitigation secured through the Order and DoO the traffic management of the project will not result in air quality objective levels being exceeded [ER 5.3.126]. The Secretary of State agrees with the ExA's conclusions on this matter.

#### *Construction Dust*

- 4.105 The ExA notes the concerns raised with regards to the increase of dust and air pollution including the issue in respect of the dust management for borrowpits and stockpiles [ER 5.3.127 et seq.]. ESC sought revised requirements to have a number of monitoring locations, and a minimum period for monitoring during construction, and this should be agreed through the CoCP, Dust Management Plan ("DMP") or Construction Environmental Management Plans ("CEMPs") to be prepared by contractors and approved by ESC [ER 5.3.131]. The ExA [ER 5.3.134] states that implementation of measures with the proposed monitoring arrangements, set out within the CoCP, are secured through Requirement 2 of the draft Order. Monitoring would be reported to ESC monthly throughout the monitoring period and reviewed through the Environmental Review Group ("ERG"). The primary control of dust emissions from stockpiles would be secured by way of best practice requirements within the CoCP [ER 5.3.135]. The CoCP also requires site inspections to ensure compliance with the ODMF and additional Dust Monitoring and Mitigation Plans ("DMMP") to be developed prior to works commencing, each DMMP would need to be prepared and submitted to ESC for approval [ER 5.3.141]. The ExA is satisfied that the mitigation in place secured through the CoCP will ensure dust levels remain within appropriate standards [ER 5.3.141]. The Secretary of State agrees with the ExA's conclusions on this matter.



## *Road Traffic Emissions*

- 4.106 The ExA notes the concerns raised related to increased traffic during construction that may create pollution and reduce air quality particularly in the early years along the B1122 and extend to the traffic using the new road infrastructure [ER 5.3.142 et seq.]. IPs considered the proposals fail to address emissions of either freight vehicles or local supplementary supplier traffic across the road network with the potential to have adverse effects on local communities along the designated construction traffic route and beyond [ER 5.3.144]. The ExA notes while the focus of much of the Examination was on the main traffic routes of the A12 and B1122 in the early years, IPs from other communities expressed their concerns about the impacts spreading further afield [ER 5.3.145]. In response to concerns about effects on Farlingaye High School the ExA sought clarification from the Applicant. The transport emissions assessment indicated the effects at this receptor would be negligible (not significant) during construction (early year and typical and busiest day peak year) and operation. Predicted air pollutant concentrations would remain well below the relevant air quality standards protective of health at all receptors including changes in concentration and exposure. On this basis there is considered to be no measurable health risk [ER 5.3.147]. ESC confirmed they agreed with this response [REP2-176].
- 4.107 During the Noise and Air Quality ISH, concern was expressed regarding the potential effect on pupils at Yoxford School. The Applicant explained the assessment had a worst case receptor (YX2) at the junction of A12 and A1120. No significant effects from construction dust or transport emissions are predicted at YX2 and pollutant concentrations remain well below air quality objectives [ER 5.3.149].
- 4.108 Towards the end of the Examination as part of further mitigation being proposed by the Applicant, pedestrian crossings were proposed on the A12 and B1122 [ER 5.3.150]. The ExA notes the potential for these crossings, particularly on the A12, to have an effect on air quality and that an assessment of these effects was not presented to the Examination. While the Councils were content that procedures had been put in place through the DoO that could provide for a monitoring regime, the outcome of any effects is unknown. In response to the ExA's position, on 18 March 2022 the Secretary of State requested an update from the Applicant's regarding the potential effects of the introduction of these crossings. The Applicant's response states, for completeness, a number of formal pedestrian crossings currently proposed as part of the local highway improvement schemes including a signal controlled pedestrian crossing on the A12 in Marlesford and a signal controlled junction on the A12 at Church Road in Little Glemham (with drawings included in Annex S of the DoO); signal controlled pedestrian crossing on the A12 in Yoxford (with drawings included in Annex X of the DoO) and a zebra crossing on the B1122 in Theberton south of Church Road (drawings included in Annex Q of the DoO). The pedestrian crossings are proposed to mitigate the adverse effects of the increase of traffic on pedestrians crossing the A12 and B1122. The Applicant details the effects for driver delay, air quality effects and noise effects for each of the formal pedestrian crossings currently proposed.

4.109 In respect of driver delay effects on all crossings the Applicant concludes that the driver delay for each respectively is negligible. The Applicant reports that the Councils have agreed that the risk of significant adverse air quality effects arising from the use of the proposed pedestrian crossings is likely to be minimal, based on the siting of the proposed pedestrian crossings agreed with the Councils. It is recognised that each use of the pedestrian crossing has the potential to slightly change the rate of air pollutant emissions from road traffic relative to the emission rate for free-flowing traffic, as traffic slows, waits and accelerates away. During peak hours the average stopping times for cars is reported and it is considered that the potential change in magnitude and frequency of road traffic emission rates is too low to cause a material change to the reported concentrations at any receptors on the A12 or B1122. The Applicant has agreed with the Councils and committed in the CoCP that an air quality impact assessment would be undertaken prior to construction of the Yoxford pedestrian crossing and has amended the CoCP to extend the undertaking to all four controlled pedestrian crossings to be carried out under Schedule 16 of the DoO. The assessments would need to be submitted to ESC for approval and must demonstrate that no significant air quality effects would occur from the installation and use of any of the crossings and would specify what additional measures (if any) that would need to be incorporated into the design to demonstrate no significant air quality effects. An air quality monitoring programme is also required in the CoCP following installation of the proposed crossings to demonstrate that air quality effects are not significant and the assessment findings remain valid. The Secretary of State has considered the further information from the Applicant, with the controls in place is satisfied that this matter has been satisfactorily considered and addressed in relation to these matters.

*Construction phase emissions from Non Road Mobile Machinery (“NRRM”)*

- 4.110 The potential for emissions from NRMM particularly at the MDS was raised by ESC in the LIR and IPs as part of their general concerns [ER 5.3.151 et seq.].
- 4.111 The Applicant’s assessment had not identified any significant adverse effects on sensitive receptors once mitigation was in place. ESC agreed with this conclusion and was satisfied that measures could be put in place once commitments were made to the monitoring of generators by the Applicant and the early transfer of plant onto the on-site electrical supply [ER5.3.153]. The ExA notes [ER 5.3.154] a commitment has been agreed with ESC on the emissions performance standards to be met (Stage IV compliant engines) and how compliance would be managed.
- 4.112 At [ER 5.3.157] it is noted that in order to obtain an Environmental Permit for the construction generators, the Applicant will need to demonstrate to the EA that Best Available Techniques will be used, covering emissions performance standards as well as plant operation and maintenance. Common standards would apply across the whole of the development. The Applicant reiterated the conclusion that construction phase effects on amenity or local air quality would not be significant and was not dependent upon the achievement of the proposed exemptions limit for NRMM [ER 5.3.159]. The use of predominantly Stage IV compliant plant and an early switch to mains power would therefore

further reduce the predicted air quality effects from NRMM and it is confirmed that no significant effects would occur [ER 5.3.160].

#### *Monitoring and mitigation of Particulate Matter*

- 4.113 The ExA notes the concerns of IPs regarding air quality and the potential adverse effects on human health from increased NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> [ER 5.3.161 et seq.]. It was stated that current monitoring by ESC was inadequate and gave no assurances to IPs that there was a proper understanding of the air environment within this part of Suffolk and without knowing the current position there would be no way of assessing the likely effects associated with or coming from the Proposed Development. The adverse effects on human health from PM<sub>2.5</sub> remained a major issue throughout the Examination for several IPs, who identified there was no safe level for these particulates. TASC acknowledged that the UK currently meets all legally binding limits for PM<sub>2.5</sub>, but the ExA understands there is a growing body of evidence that these particles are damaging to human health [ER 5.3.166].
- 4.114 PHE (now UKHSA) set out its position that pollutants, particularly particulate matter, are non-threshold and that reducing public exposures below air quality standards will have potential public health benefits [ER 5.3.167]. The Applicant reaffirmed that due to the nature of construction dust the construction activities would not give rise to significant PM<sub>2.5</sub> emissions, therefore there is no justification for monitoring being required [ER 5.3.171]. The Applicant agreed to undertake monitoring of PM<sub>2.5</sub> at the same locations where PM<sub>10</sub> monitoring is proposed and to share the results with the Councils, which is secured in the CoCP and DMMP [ER 5.3.172]. The ExA notes this would assist in developing an understanding of levels of PM<sub>2.5</sub> across the area but there is nothing currently drafted within the Order that would require any remedial action in the unlikely event that PM<sub>2.5</sub> levels were to rise above the agreed Air Quality Objectives (“AQO”) [ER 5.3.173].

#### *Ozone releases*

- 4.115 The ExA notes that that it was agreed that locally in Suffolk, ozone concentrations are relatively high [ER 5.3.174]. It is recognised however that nitrogen oxides are emitted from traffic and combustion plant, and their use during the construction phase would create additional levels of these precursors above the current status [ER 5.3.175]. Various measures have been committed to reduce emissions of nitrogen oxides for example, the progressive electrification of the construction site, the commitment to Euro IV compliant HGVs and the commitment to Stage IV compliant NRMM would have the additional benefit of reducing emissions of ozone precursors and reduce ozone formation downwind of the site [ER 5.3.175]. It was also confirmed that the site itself would not have any activity that would emit ozone during construction or operation [ER 5.3.176].
- 4.116 The ExA’s view is that the mitigation the Applicant proposes would control emissions from the construction of and transport to and from the site during the construction process are a reasonable response to the emissions that would be generated by the Proposed Development [ER 5.3.180]. The ExA is of the

view that it is not possible to predict with any certainty that the emissions from the development would directly create exceedance of ozone either at the site or on the road network or in the area generally [ER 5.3.181]. Nor is it reasonable in the ExA's view to prevent a development from taking place unless there is a direct correlation that can clearly demonstrate that the development itself would exacerbate that position. The ExA consider that this has not been demonstrated to be the case [ER 5.3.182]. The CTMP was updated to reflect the commitment to HGV Euro VI engine performance and are secured in the DoO [ER 5.3.183]. The Applicant's proposed measures to mitigate the impacts at the MDS permanent car park include at least 20% of car parking spaces having electric vehicle charging, with a further capacity for passive provision. The demand for electric vehicle charging at the permanent development site shall be reviewed in line with the Operational Travel Plan [ER 5.3.184]. The Secretary of State notes that is secured in Requirement 16 of the Order.

#### *Desalination plant*

- 4.117 The Applicant's change to include a desalination plant for the construction period was the subject of ISH15 [ER 5.3.187]. This included additional assessments for the desalination plant greenhouse gas emissions and desalination plant air impacts. The ExA notes the desalination plant is proposed as a temporary measure but could be in use for the whole construction period, sited on the main platform area at the outset then would be moved north to the temporary construction area [ER 5.3.188].
- 4.118 During ISH15 and in written submissions it was made clear that the plant would run on diesel generators initially but would run on mains power once this had been facilitated within the main site [ER 5.3.190]. The Applicant's ES assessed the effects of the additional diesel generators for the initial period prior to the switch to mains power and a specific assessment was undertaken which assessed the air quality effects of the diesel generators running for a period of up to three years [ER 5.3.191]. This was subject to consideration at ISH15 where IPs including NE expressed reservations about the degree of effect upon the ecologically sensitive sites at Minsmere and Walberswick SPA/Ramsar site and in triggering an exceedance of the 1% threshold figure for NO<sub>x</sub> in an area which was already at a level substantially above the threshold level for NO<sub>x</sub>. Based on the Applicant's assessment, the proposed desalination diesel generators in their proposed location are not predicted to give rise to significant effects on any human health or habitat sites, considering they will only be installed for a maximum of two years, nor are they predicted to give rise to any adverse impact on the integrity of any European site. As such the Applicant considers that the relevant permit will be granted by the EA [ER 5.3.193].
- 4.119 The ExA notes the IPs' considerations of the assessment [ER 5.3.194 et seq.] and that paragraph 3.4.3 of the Desalination Plant Air Impact Assessment says that the impact on Minsmere goes above the threshold of insignificance for ammonia, and the Applicant's position relies on the argument that it is temporary [ER 5.3.197]. The ExA sought clarification on the questions raised at ISH15 and in ExQ3 [ER5.3.198]. ESC understands that the additional temporary generators will be regulated by the EA and subject to their permit regime which in itself will require an environmental impact assessment [ER

5.3.199]. ESC notes that the EA is content that the assessments undertaken by the Applicant to date are adequate without prejudice to the EA's separate permitted decision. ESC agrees that the assessment of air quality impacts is adequate. Subject to the controls in the Construction Method Statement and the CoCP, ESC does not dispute the findings of the ES addendum and the assessment of air quality impacts on designated habitats. However, the generator's NH<sub>3</sub> contribution is greater than 1% of the critical level so ESC would expect the EA to consider this further at the permitting stage [ER 5.3.199].

4.120 At Deadline 10 the Applicant provided a revised air quality assessment for the desalination plant [REP10-153]. This placed a limit on the length the diesel generators could be run to a maximum of two years prior to mains power supply and an increase in the stack height of the plant [ER 5.3.201 et seq.]. The Order includes a requirement to ensure ESC and the EA are notified when the desalination plant is commissioned and enforces a time limit to ensure the operation of the plant would remain within the revised assessment [ER 5.3.220 et seq.]. The ExA is of the view for this to be controlled to this level a requirement would need to be added to the Order to ensure ESC and the EA are notified when it is commissioned, so that the time period for the operation of the diesel generators can be limited. This is secured at Requirement 13 of the Order [ER 5.3.220]. The Secretary of State agrees with the ExA this is a suitable method of control and would ensure that the time limit is enforced appropriately and notes that any further approvals would include consultation with NE.

4.121 The Secretary of State issued a letter on 16 May 2022 with regards to the Applicant's updated air quality assessment, which was submitted in response to the Secretary of State's letter of 18 March 2022. The assessment included additional air pollution models which included combined contributions from diesel generators for the desalination plant; the combined heat and power facility; the haul route non-road mobile machinery; and other mobile generators, used during the construction phase. The letter invited NE to provide advice on whether an adverse effect on site integrity on qualifying features for the Sandlings SPA and Minsmere-Walberswick SPA, and Ramsar, and Minsmere to Walberswick Heaths and Marshes SAC from the impacts of changes in air quality, could be excluded. On 14th June 2022, NE provided advice based on this additional information. The Secretary of State has assessed the relevant post-Examination representations from Natural England, Environment Agency and the Applicant and his conclusions are set out in the HRA section of this letter.

#### *Suitability of Monitoring and Mitigation*

4.122 The ExA notes the concerns raised over monitoring and mitigation proposed for impacts on air quality [ER 5.3.203 et seq.]. The Deed of Obligation provides a commitment to support the ongoing monitoring of NO<sub>2</sub> by ESC [ER 5.3.207]. The ExA note that IPs desire independent monitoring by a third party from a lack of confidence in either the Applicant or ESC to be able to manage and monitor air quality effectively. The NPS makes clear that the ExA can rely on the regime of powers outside of the DCO process to be operating effectively.

Whilst noted these concerns do not weigh against the scheme in the ExA's consideration of the proposals [ER 5.3.208]. The ExA considers that the monitoring and mitigation proposed by the Applicant sufficiently minimises the likelihood of significant impacts and is satisfied that this would be secured in the CoCP and other documents, and that this is considered robust. The ExA are satisfied that this would be an appropriate series of controls to manage the air quality in the area [ER 5.3.210]. The Secretary of State agrees with the ExA on this matter.

#### *Cumulative impacts*

- 4.123 In relation to the GRR, the ES Volume 10 project-wide, Cumulative and Transboundary Effects, Chapter 2 Interrelationship effects [APP-575] paragraph 2.3.65, identifies that during construction noise generated from rail movements on the East Suffolk line have the potential to interact with air quality effects from road traffic and rail emissions which could result in new and or different environmental effects within a number of areas [ER 5.3.211]. The areas where new and/or different environmental effects may be experienced include Campsea Ash, Woodbridge and Saxmundham, however in these areas the air quality effects from road traffic and rail emissions have been assessed and either are negligible or beneficial (where there is a decrease in pollutant concentrations, the effect is beneficial) [APP-575]. This means there is potential for effect interaction to occur and result in a further significant effect at those receptors where noise effects from the rail movements would be significant (within 20 metres of the East Suffolk Line). The rail noise effects would be mitigated where possible through the implementation of speed restricts along the East Suffolk Line [ER 5.3.211]. Further consideration is given to noise and vibration effects of the GRR in the relevant section of this letter.

#### *Conclusions*

- 4.124 The ExA considers that the Applicant's approach to the assessment of air quality impacts, including the baseline and data collection, the assessment methodology and assessment criteria is sound [ER 5.3.212 et seq.]. This is a position shared by the Councils and confirmed in the final SoCG [REP10-102]. The ExA is satisfied that impacts from the construction phase on air quality including dust emissions would be kept to a minimum through implementation of mitigation, including the measures set out in the CoCP [ER 5.3.213]. It is also of the view that there would not be significant adverse effects from emissions to air from construction plant and equipment or the desalination plant and CHP [ER 5.3.214].
- 4.125 The ExA considers [ER 5.3.215] that the mitigation proposed is reasonable and the commitment to Euro Stage VI vehicles, air quality monitoring and reporting achieves an appropriate mechanism to safeguard air quality in the area and achieve AQO standards. The ExA further notes that in respect of road traffic emissions, all annual mean concentrations are below the AQO and with the project are not predicted to exceed these levels, as a consequence they would not result in significant changes to air quality. Positive benefits in air quality on the A12 at Farnham once the TVB is complete and along the B1122 once the

SLR is complete would provide legacy benefits which would count in the planning balance in favour of the scheme [ER 5.3.216].

- 4.126 The ExA is satisfied that the Applicant has made appropriate provision for the management of construction and worker traffic generated by the Proposed Development such that vehicle emissions would be appropriately mitigated [ER 5.3.217]. This is in combination with the commitment to Euro Stage VI vehicles protects the air quality in the area, and leads to predictions that neither AQMA at Woodbridge or Stratford St Andrew would exceed AQO values [ER 5.3.217]. The ExA concludes that the impacts on air quality during the construction and operation stages have been properly assessed and that all reasonable steps have been, or will be, taken to ensure that air quality limits are not breached [ER 5.3.218]. The ExA states there is no evidence of any risk that the project would affect the UK's ability to comply with the Air Quality Directive [ER 5.3.218]. This conclusion is based upon the assumption of an additional requirement that the EA and ESC are notified when the desalination plant is first commissioned so that the time period for the operation of the diesel generators can be limited to that in the final desalination plant air quality assessment [REP10-153].
- 4.127 The ExA has included an additional element under Requirement 13 covering Temporary Construction at the MDS that requires the Applicant to notify ESC and EA of the date the desalination plant is first commissioned, and subsequently the date it has been transferred to operate from mains power. The desalination plant must be installed and operated in accordance with the Revised Desalination Plant Air Impact Assessment and cease to be powered beyond the two years specified unless approved by ESC following consultation with NE and the EA [ER 5.3.221].
- 4.128 The ExA notes [ER 5.3.222 et seq.] that because the revised assessment was submitted at the final deadline other parties who had expressed concern about the additional impacts of the diesel generators had not had the opportunity to consider whether this reduction from three to two years and the increase in stack heights from 3m to 4m resolved the concerns they had identified. The ExA suggests that the Secretary of State may therefore wish to consult IPs on this matter. The Secretary of State issued a letter on 16 May 2022 in respect of protected sites, as considered in paragraph 4.121 his conclusions are set out separately in the HRA section of this letter. He notes that the ExA is content that, with the mitigation proposed including requirement 13, the development would comply with the NPPF and local planning policies [ER 5.3.223 et seq.], and accordingly he agrees with the ExA's conclusion on this matter. The ExA is aware that the World Health Organisation has adopted new guidance, but to date there has not been a formal Government response as to whether this is to be adopted or how it might be applied in the future, and as a result it has not given them weight in their conclusions [ER 5.3.223]. The Secretary of State agrees with the ExA's conclusion on this matter.
- 4.129 The ExA concludes in respect of air quality issues there are no matters which would weigh against the making of the Order and in the long-term positive legacy benefits would arise from the SLR and TVB which ascribe moderate

weight in favour of making the Order [ER 5.3.224]. The Secretary of State agrees with the ExA's conclusions on this matter.

- 4.130 In accordance with the policies set out in EN-1 and EN-6, the Secretary of State has no reason to believe that an environmental permit will not be granted and in reaching his conclusion the Secretary of State is confident that the impacts of changes to air quality will be assessed by the EA as part of their permitting process and that pollution mitigation and control measures will be secured for protected sites. Overall, the Secretary of State agrees with the ExA's conclusions on these matters.

### Alternatives

- 4.131 As noted by the ExA, relevant policy considerations in respect of alternatives include those in Section 4.4 of NPS EN-1 and in Sections 1.8, 2.4 and 2.5 of Vol I of EN-6 [ER 5.4.1 et seq.]. The ExA also notes the relevance of the principles of common law in planning decision-making, highlighting the *Save Stonehenge* case<sup>8</sup> amongst others [ER 5.4.8 et seq.].
- 4.132 The Applicant summarised the particular statutory provisions and policies that impose an obligation to consider alternatives, the applicable test or requirement, and an indication of where to find details of compliance with those requirements in Appendix 5A (Legal and Policy Requirements relating to the assessment of alternatives) of the Applicant's Responses to the ExA's First Written Questions (ExQ1) Volume 3 ("Appendix 5A") [ER 5.4.12]. With regard to compliance with the EIA Regs, the Applicant relied upon the relevant Site Specific Alternatives Chapters in the ES [ER 5.4.14].
- 4.133 The ExA has taken into account the concerns raised by IPs in relation to the proposed siting of the Proposed Development and reactor design [ER 5.4.94, ER 5.4.105]. The ExA notes that the Sizewell C site is identified in EN-6 as potentially suitable for the deployment of new nuclear power stations before the end of 2025, and that notwithstanding that it is no longer possible to deliver a nuclear power station by this date, the Government has subsequently confirmed<sup>9</sup> that it considers the sites listed in EN-6 to be those sites which can deploy the soonest and are likely to be the only sites capable of deploying a nuclear power station by 2035 [ER 5.4.95]. The ExA considers the fact that the Applicant has not considered an alternative site for the location of the Proposed Development to be an entirely reasonable and proportionate approach [ER 5.4.97]. In reaching this conclusion, the ExA considered the policy requirement in EN-1 paragraph 5.9.10 relating to development proposed within nationally designated landscapes, and notes that the inclusion of land additional to the nominated site boundary is primarily for construction activities and such provision is anticipated in EN-6. With regard to reactor design, the ExA considers that the regulatory framework makes provision for appropriate safeguards in terms of nuclear reactor design, and notes that in light of the overriding role of the nuclear regulators in such matters and the utilisation of this design at Hinkley Point C, it does not consider that it was incumbent upon

---

<sup>8</sup> *R (on the application of Save Stonehenge World Heritage Site Ltd) v Secretary of State for Transport* [2021] EWHC 2161 (Admin)

<sup>9</sup> BEIS 2018 Response to consultation on the Siting Criteria and Process for a new NPS on Nuclear Power



the Applicant to assess alternative reactor designs, and the ES approach is reasonable and proportionate in that respect [ER 5.4.105]. The ExA also concluded that alternative energy generating technologies do not need to be considered again, as these were considered by the Government in developing national policy and discounted [ER 5.4.106-5.4.108]. The Secretary of State agrees with the ExA's conclusions on these matters.

- 4.134 In relation to strategic alternatives for accommodation infrastructure and the movement of people and freight, the ExA is satisfied that alternatives to these aspects of the Proposed Development have been assessed as required by the EIA Regs and Marine EIA Regs, and that the ES approach is reasonable and proportionate in that respect [ER 5.4.130].
- 4.135 With regard to the MDS SSSI crossing, the ExA notes the preference of IPs, including SCC, is for a three-span bridge design [ER 5.4.131]. The ExA is content that the ES approach to this matter is reasonable and proportionate in respect of the required consideration of alternatives set out under Regulation 14 of the EIA Regs [ER 5.4.138]. The Secretary of State considers that the Applicant should proceed with the proposed single-span bridge design introduced as Change 6 for the SSSI crossing in line with the ExA's conclusion [ER 5.6.431] that the benefits of the single-span design outweigh the adverse effects should the Secretary of State decide not to follow the ExA's conclusion on the provision of the SLR before construction. The Secretary of State considers that the proposed single-span design is appropriate given that the three-span design would delay the delivery of the Proposed Development for which there is an urgent need. The Secretary of State notes that the ExA is content with the single-span bridge design and while NE prefers a three-span bridge, it agrees the current design represents a best alternative. Further consideration of the design of the SSSI crossing can be found in the biodiversity section of this letter. In agreeing with the ExA that the single-span design is appropriate, the Secretary of State is mindful of his decision not to follow the ExA's recommendation on the provision of the SLR before construction. Had the Secretary of State agreed with the ExA's recommendation on the timing of the delivery of the SLR, then this would have negated the benefit of the shorter amount of time required to deliver the single-span bridge in comparison with the three-span bridge. Further consideration of the timing of the delivery of the SLR can be found in the traffic and transport section of this letter.
- 4.136 The ExA considered alternatives and related matters raised by IPs in relation to the electrical connection to the National Grid substation [ER 5.4.139 et seq.], Sizewell B relocated facilities [ER 5.4.156 et seq.], the fen meadow compensation land [ER 5.4.170 et seq.], the marsh harrier habitat improvement area [ER 5.4.182 et seq.], the TVB [ER 5.4.195 et seq.], the NPR [ER 5.4.287 et seq.], the SPR [ER 5.4.303 et seq.], the Freight Management Facility ("FMF") [ER 5.4.315 et seq.], and the Yoxford Roundabout and other highways improvements [ER 5.4.327 et seq.], and concluded that for the purposes of the EIA Regs, and the required consideration of alternatives, the ExA are content that Regulation 14 has been complied with by the Applicant, and that the ES approach is reasonable and proportionate in that respect. The Secretary of State agrees with the ExA's conclusion on this matter.

- 4.137 With regard to the SLR, the ExA notes that IPs raised objections both as to the proposed route of the SLR and in relation to its permanent retention [ER 5.4.273]. The Site Selection Report, Section 7, explains how the alternative routes were considered during the ES assessment process, and the ES considered and provided reasons for the rejection of the alternative routes. The Site Selection Report concludes that the most suitable route for a road linking the A12 to the Proposed Development is the proposed SLR [ER 5.4.274]. During the Examination the Applicant provided a summary document, Sizewell Link Road: Principle and Route Selection Paper Appendix 5A [REP2-108] and other supporting documents, which demonstrates that the SLR has been thoroughly assessed and compares alternative routes, including Route W, through the ES site selection process which has taken into account a range of environmental factors. The ExA is content that the Applicant has considered and taken into account consultation responses in the final selection of Route Z (South) [ER 5.4.276]. In addition, since the submission of the application, further options appraisal and assessment were carried out on route options (Routes W, X, Y and Z) to test the robustness of the conclusion that the chosen route was the most suitable. This has confirmed that Route Z (South) is the most appropriate route and alignment for the SLR [ER 5.4.277]. Further independent assessment was also commissioned by the Applicant focussing on environmental considerations. This also concluded that the preferred option was Route Z (South) and that Route W would have a greater impact in terms of landscape and other issues than routes which parallel or immediately bypass the B1122 [ER 5.4.278]. The ExA has considered the site selection process for the SLR in light of the *Save Stonehenge case*, taking all the historic information available, and evidence which has emerged in the course of the Examination, and having regard to the criticisms made of the route selection process by IPs, the ExA find the Applicant's assessment to be robust [ER 5.4.279].
- 4.138 Taking all relevant factors into account the ExA is satisfied that the proposed SLR route (Route Z (South)) represents the most satisfactory and least harmful option for a road linking the A12 to the Proposed Development compared to the alternative routes that have been suggested [ER 5.2.279]. The ExA does not find there to be clear planning objections to the Applicant's proposed route to the extent that the relative merits of other alternative routes represent an obvious material consideration [ER 5.4.280]. The ExA notes that the route selection should have undertaken a fuller examination of the transport impacts over a wider area and full consideration should have been given to issues relating to vehicle mileage and journey time, but acknowledges that that is not the only consideration relevant to route selection and states that, looking at the route selection in the round, the ExA considers the proposed SLR to be the most appropriate route [ER 5.4.281].
- 4.139 With regards to the question of whether the SLR should be permanent or temporary, it is noted that ESC raised concerns about the environmental impact of the removal of the road and that this would increase the duration of the construction phase of the Proposed Development and that the Applicant decided to propose the SLR as a permanent facility [ER 5.4.282]. The ExA recognises that the removal of the SLR and the reinstatement of the land would require a significant amount of construction activity including additional lorry movements [ER 5.4.283] and concludes that the SLR should be retained on a

permanent basis [ER 5.4.284]. For the purposes of the EIA Regulations, and the required consideration of alternatives, the ExA is content that the Applicant has complied with Regulation 14 and the ES approach is reasonable and proportionate. The Secretary of State agrees with the ExA's consideration of and conclusion on this matter.

- 4.140 The ExA notes that Regulation 14 of the EIA Regulations, and Regulation 12 of the Marine Works EIA Regulations, contain similar requirements for applications to be accompanied by an ES which includes a description of reasonable alternatives and an indication of the main reasons for the option chosen, taking into account the effects of the application on the environment [ER 5.4.338]. The ExA also notes that paragraph 4.4.2 of NPS EN-1 obliges applicants to include information about the main alternatives they have studied in their ES [ER 5.4.339]. The ExA confirms that Appendix 5A sets out the relevant Site Specific Alternatives Chapters in the ES, and confirms that these requirements have been complied with.
- 4.141 With regard to the Proposed Development's impact on the Area of Outstanding Natural Beauty ("AONB"), and the relevant policy on alternatives and landscape and visual impacts set out in Sections 4 and 5 of NPS EN-1 respectively, the ExA concludes that the tests for alternatives have been met and that the detrimental effects on the landscape character and views that would arise have been mitigated for both construction and operation as far as is reasonably practicable [ER 5.4.342].
- 4.142 The ExA notes [ER 5.4.344] that the issue of flood risk and the application of the Sequential and Exception tests as set out in Section 5.7 of NPS EN-1 was considered by the Applicant in the Site Specific Flood Risk Assessments [APP-093 to APP-144, AS-018 and AS-157 to AS172]. The ExA concludes [ER 5.4.435] that the Applicant has fully addressed the flood risk associated with the construction and operation of the Proposed Development and that the Applicant's assessment of flood risk complies with the policy in NPS EN-1 regarding the need to make the Proposed Development safe without increasing flood risk elsewhere.
- 4.143 With regard to biodiversity, the ExA notes [ER 5.4.347] that the Applicant considered the relevant policy set out in paragraph 5.3.7 of NPS EN-1 in the Site Selection Report [APP-591]. The ExA concludes that the Applicant has undertaken a proportionate consideration of reasonable alternatives to avoid significant harm to biodiversity and geological conservation interests, in accordance with Section 4.4 of NPS EN-1.
- 4.144 Section 126 of the Marine and Coastal Access Act 2009 sets out the duties of public authorities in relation to certain decisions. The ExA notes that the Applicant relied upon the ES MDS Chapter 6 Alternatives and Design Evolution and MDS Appendix 6A Alternative Sizewell B Relocated Facilities Implementation Scenario in compliance with this section [ER 5.4.353]. The ExA confirmed it has had regard to the relevant marine policy documents, and that the Secretary of State can be satisfied that the Applicant has taken account of the Marine and Coastal Access Act 2009, with no outstanding concerns relating to the application of section 126 of that Act [ER 5.4.354].

4.145 The ExA notes [ER 5.4.355] there is a need to consider alternatives in the context of assessing whether there is a compelling case in the public interest in order to justify any Compulsory Acquisition (“CA”) of land. The ExA states that the Statement of Reasons and its Addendum explain how the Applicant has addressed the CA guidance that all reasonable alternatives to CA must be explored, and concludes that all reasonable alternatives have been explored.

*Water Framework Directive (“WFD”)*

4.146 The ExA notes that the Applicant drew attention to the WFD Compliance Assessment Report [ER 5.4.16]. The ExA is satisfied the Applicant has demonstrated compliance with the WFD as far as it is possible without the in-combination consideration of effects from the Environment Agency (“EA”). However, the ExA further advises that, as the EA had not completed the required in-combination assessment for WFD compliance at the end of the Examination, the Secretary of State may wish to consult the EA and the Applicant to establish the position on this before taking his decision on the Application [ER 5.4.351].

4.147 In his letter of 18 March 2022, the Secretary of State requested that the EA confirm whether the combined assessment for WFD compliance was completed and, if completed, a copy should be provided. The EA responded that it had reviewed the Applicant’s WFD assessment submitted in support of its WDA permit application. The EA explained that all environmental permit decisions were in draft form but would be complete soon, and advised that it intends to launch a public consultation during June 2022 on its proposed permit decisions. To assist the Secretary of State’s consideration of WFD compliance, the EA included a final draft of its WFD compliance assessment in its response but noted that the text has not yet been finalised. The EA’s final draft of its WFD compliance assessment notes that, with consideration of the limitation of the scope of this assessment for in-combination effects and with the measures in place under the DoO, the EA Assessment of these impacts concludes that there is minimal risk of these activities impacting on compliance with the Water Environment Regulations. In light of the EA’s response, the Secretary of State is satisfied that this matter has been sufficiently resolved for the purposes of determining the Application.

*The Habitats Regulations*

4.148 The ExA notes that [ER 5.4.15], on the HRA and Imperative Reasons of Overriding Public Interest (“IROPI”) test, the Secretary of State must be satisfied in granting consent that there are “no alternative solutions” in accordance with Regulation 64 of the Conservation of Habitats and Species Regulations 2017, and that this issue is considered in the shadow HRA (“sHRA”) of Alternative Solutions (which also considers the test for offshore marine habitats and species in the Conservation of Offshore Marine Habitats and Species Regulations 2017/1013).

4.149 The Applicant submitted an assessment of alternative solutions, a case for IROPI, and proposed compensatory measures in respect of the breeding

marsh harrier qualifying feature of the Minsmere-Walberswick SPA and Ramsar.

- 4.150 The ExA considered [ER 6.6.13] that sufficient information had been provided by the Applicant to allow the SoS as the competent authority to consider alternative solutions to the Proposed Development in accordance with the requirements of the Habitats Regulations.
- 4.151 The ExA concluded [ER 6.6.12] that it was satisfied that there are no alternative solutions which would deliver appreciable benefits in terms of adverse effects on marsh harrier of the Minsmere-Walberswick SPA and Ramsar from noise and visual disturbance during construction and still meet the objectives of the Proposed Development.
- 4.152 Following a review of the information submitted by the Applicant, and comments provided by Interested Parties, as well as the recommendation of the ExA, and having identified the objectives of the Proposed Development and considered all alternative means of fulfilling these objectives, the Secretary of State is satisfied that no alternative solutions are available that would meet the objectives of the Proposed Development and which would result in a lesser effect on the Minsmere-Walberswick SPA and Ramsar to that predicted to occur as a result of the Project, and that IROPI must be considered.
- 4.153 With regard to all other protected sites and qualifying features screened into the Appropriate Assessment, the Secretary of State's HRA concludes that adverse effects upon site integrity can be excluded, and therefore derogations, including an assessment of alternatives, is not required.

*Overall conclusion*

- 4.154 Overall, the ExA concludes [ER 5.4.356] that, with the exception of its outstanding concerns relating to the Habitats Regulations (which relate to the assessment of the permanent potable water supply), there are no other policy or legal requirements that would lead it to recommend that development consent be refused for the Proposed Development in favour of another alternative, and that consequently, there are no matters relating to alternatives that would weigh for or against the Order being made.
- 4.155 As set out above, the Secretary of State is satisfied that the Applicant has demonstrated that there are no alternative solutions that would meet the objectives of the Proposed Development and which would also result in a lesser effect on the Minsmere-Walberswick SPA and Ramsar to that predicted to occur as a result of the Proposed Development, and considers that the Applicant has complied with the Habitats Regulations.
- 4.156 With regard to assessing water supply impacts, the Secretary of State is satisfied that the required assessments of the ultimate water supply solution can be deferred for consideration under Northumbrian Water Limited's Water Resources Management Plan 2024 Process. Further consideration of this matter can be found in the Flood Risk, Groundwater and Surface Water section of this letter.

4.157 The Secretary of State considers that there are no matters relating to alternatives that would weigh for or against the Order being made.

#### Amenity and Recreation

4.158 The relevant policy considerations include EN-1 and EN-6, which set out the requirements for amenity and recreation associated with the development of major energy infrastructure [ER 5.5.1 et seq.]. Both EN-1 and EN6 recognise the importance of coastal recreation generally and opportunities to maintain and enhance access to the coast, including a managed path as provide for in the Marine and Coastal Access Act 2009. The ExA notes the relevance of NPPF paragraphs 100 and 130 [ER 5.5.6 et seq.]. The ExA also notes the relevant Suffolk Coastal Local Plan policies and the Suffolk Coast and Heaths Area of Outstanding Natural Beauty Management Plan (2018-2023) [ER 5.5.8 et seq.].

4.159 The ES Chapter 15 assesses the amenity and recreation effects from the construction and operation of the Proposed Development at the MDS and is supplemented by additional chapters for each of the associated development sites. Change requests were included in revised information [ER 5.5.15] and further updates were provided during the Examination [ER 5.5.16].

#### *The ExA's Consideration and Conclusions*

4.160 The severance effects of the new roads crossing the existing public rights of way are summarised in Volume 1, Chapter 2 of the ES Addendum [ER 5.5.179]. The ExA considers the Applicant's assessment reasonably reflects the degree of severance that would occur as a result of the Proposed Development during construction and subsequent operation [ER 5.5.180]. The ExA considers that a change to retain a vehicular crossing of the SLR at Pretty Road is a positive response to the concerns identified by IPs [ER 5.5.180].

4.161 The ExA notes that to mitigate effects, a new non-motorised user bridge is proposed over the TVB, with the vehicular bridge over the SLR at Pretty Road, junctions have been provided along the SLR to provide access to the existing network of rural roads [ER 5.5.181]. The ExA notes that the Applicant considers that the new roads themselves mitigate severance effects within communities and have been designed to provide connectivity across the roads for both non-motorised users and vehicles [ER 5.5.182].

4.162 The ExA considers that severance would cause harm to the communities in this location due to a combination of the construction of the SLR and the use of the B1122 in the early years. This would be significant for up to 2 years 9 months according to the Applicant's programme [ER 5.5.183]. The Secretary of State considered the ExA's position on the SLR delivery phasing, and subsequently sought more information from the Applicant in a letter on 18 March 2022. This is considered further in the Transport and traffic section.

4.163 The ExA notes it was recognised at the outset of the site nomination within EN-6 that adverse effects particularly during the construction period would result [ER 5.5.185]. The ExA notes the Applicant has sought to develop a series of mitigation measures to address these concerns and in most cases the ExA

agree with their findings [ER 5.5.186]. The ExA recognises the Proposed Development would provide some legacy benefits for the community which must weigh in the planning balance in favour of the proposal. These include the provision of sports facilities at the Alde Academy, upgrades to the Public Right of Way (“PRoW”) network, and provision and access to Aldhurst Farm. The ExA ascribes little weight to matters relating to this issue for the making of the Order [ER 5.5.187]. The Secretary of State agrees with the ExA on these matters.

- 4.164 The ExA considers the creation of the TVB and SLR would have amenity benefits for residents either side of the A12 and the B1122, whilst noting concerns remain over site selection, and in amenity terms concludes on balance the benefits outweigh the harms that would otherwise arise [ER 5.5.188]. The Secretary of State agrees with the ExA on this matter.
- 4.165 Sandlings Walk path would be closed throughout the construction phase, but its status and benefit would be enhanced by the application proposals post-construction. The DoO includes provision for a new bridleway through Kenton Hills and Goose Hill, linking Bridleway 19 with the accessible coastline, during the operational phase. The ExA states this is a positive benefit of the proposals [ER 5.5.189]. The ExA ascribes little weight to matters related to this issue for making the Order. The Secretary of State agrees with the ExA on this matter.
- 4.166 The effects on the Coastal path and the implications for the amenity of users have been considered and a programme of mitigations devised, which are agreed matters with the Councils. There will be adverse effects on the user experience particularly during construction but additionally through operation of the power stations. The ExA is of the view that the mitigation package does satisfactorily deal with the adverse effects, and this should not weigh against the scheme in the planning balance [ER 5.5.190]. The Secretary of State agrees with the ExA on these matters.
- 4.167 The ExA notes [ER 5.5.191 et seq.] in respect of the England Coastal Path (“ECP”), at the end of the Examination, NE had submitted their report, but the final route had not been set. The ExA has assumed that NE has followed its guidance, which is the methodology for implementation of the ECP and associated coastal land and that it will follow the route of the current Suffolk Coast Path. During construction however it would be affected and on a small number of occasions would close. EN-1 paragraph 5.10.16 expects applicants to have taken advantage of opportunities to maintain and enhance access to the coast, the ExA considers this has been achieved through the range of controls and mitigations included in the final DoO and Order commitments [ER 5.5.192].
- 4.168 The Secretary of State has considered the ExA’s position on the ECP [ER 5.5.193 et seq.] and considers that the Order should bring forward the suggestion from the Right of Way Access Strategy that NE are consulted as part of the final route for the ECP. The Secretary of State notes this suggestion is included in Requirement 10 of the recommended Order. The ExA concludes that the Applicant has satisfied the tests in the Marine and Coastal Access Act 2009 and with the modest change to the Order the Secretary of State’s

obligations will be satisfied [ER 5.5.195]. The Secretary of State agrees with the ExA on this matter.

- 4.169 In respect of Bridleway 19 the ExA accepts the works will result in a degree of disruption on this important route but concludes that the measures offered in conjunction with the safeguards built into the CoCP and other control document are satisfactory mitigations to address the challenges presented [ER 5.5.196].
- 4.170 The Applicant agrees there would be significant adverse effects on the recreational benefits currently enjoyed by users of the AONB, Minsmere and Dunwich [ER 5.5.197]. The Applicant undertook a Tranquillity Assessment which recognised that large areas around the MDS would be changed by the construction of the project and these effects would be significant even with mitigation in place [ER 5.5.199]. Harm to the AONB was also an issue raised in a number of post examination representations.
- 4.171 The ExA concludes there would be harm to the recreational benefits of the AONB and the land to the north identified within the ES [ER 5.5.200]. The ExA concludes that the assessment is robust, and the mitigation offered and agreed by the RSPB/SWT, National Trust and the Councils through the funding offered and secured in the DoO would result in a suitable package of mitigation measures to address the construction and operation phases of development [ER 5.5.201]. All parties recognise that even with measures in place residual harms would remain to the AONB and the recreational areas to the north of the MDS particularly during the construction phase, but also harms would remain once construction had been concluded during the operation phase of the development [ER 5.5.202]. The ExA concludes that during the construction period, there would be substantial harm to the recreational and amenity benefits provided by the AONB at the MDS and in its immediate environs as set out in the Tranquillity Assessment during construction, but this would reduce to little harm for the operational period once construction is complete. [ER 5.5.203].
- 4.172 The ExA is satisfied with the cumulative assessment methodology and that an appropriate assessment has been undertaken. The ExA considers the approach adopted by the Applicant is consistent with that required in paragraph 4.2.5 of NPS EN-1 and that the mitigation included in the MDS would be appropriate [ER 5.5.204]. In relation to the overall effect on the amenity and recreation enjoyed within the AONB and Suffolk Heritage Coast (“SHC”), despite the proposed mitigation measures, residual adverse amenity and recreation effects would remain [ER 5.5.205]. The ExA therefore ascribes substantial weight in respect of the construction phase and little weight in respect of the operational phase to these matters against making the Order [ER 5.5.205]. The Secretary of State agrees with the ExA’s conclusions on this matter.
- 4.173 The ExA notes that the timing of the SLR provision and the ongoing adverse effect the traffic associated with the development would have on residents and highway users remain a concern. The construction traffic would significantly change the character of and harm the amenity of residents to a significant degree during a time where the Applicant’s construction programme would require the greatest number of HGVs [ER 5.5.206]. Further, they consider that



mitigations through the CTMP and CWMP, as well as limits on HGV numbers and the timing of deliveries, are not sufficient to resolve the amenity issues that would arise during the early years construction period [ER 5.5.207]. The ExA considers the additional highway measures promoted through the DoO do not resolve the fundamental problem in amenity terms of directing up to 600 HDVs in addition to construction worker traffic along the B1122, a rural B road, which the Applicant and SCC both agree is not suitable for construction traffic [ER 5.5.208]. The ExA considers this weighs against the scheme and ascribes moderate weight against making the Order to this element of the Proposed Development [ER 5.5.210]. The Secretary of State agrees with the ExA's conclusions on this matter.

- 4.174 The ExA welcomed additions to the controls the Applicant agreed to during the Examination on the SLR, the TVB and the temporary beach landing facility being made available for use either within six months of the commencement of Phase 3, or before the Phase 3 installation of the Reactor Building Liner can be installed, but do not consider they resolve the early years impacts of the use of the B1122 [ER 5.5.211]. Two Monitoring and Mitigation Plans were submitted during the Examination in respect of recreational disturbance at seven sites within the National Site Network to ensure that adverse effects on the integrity of the sites do not arise as a consequence of this effect pathway. Potential impacts to sites within the National Site Network are considered in the HRA section of this letter and in the Secretary of State's HRA.
- 4.175 The ExA concludes that the funding delivered through the DoO and the control mechanisms of the CoCP and other supporting documents would be sufficient to address the recreational and amenity effects identified in the ES but residual harm would remain to both the AONB and Heritage Coast [ER 5.5.215 et seq.]. PRow improvements would be facilitated in respect of existing routes and new improved routes which will have a legacy benefit and should weigh in favour of the scheme [ER 5.5.217]. Provision of off-site sports pitches at Alde Valley Academy Leiston would also continue as a legacy benefit [ER 5.5.218]. The ExA notes that with the SLR in place the amenity of residents along the B1122 would improve, and this route should become more attractive for residents, cyclists and other users which would be further improved by enhancements secured under the DoO for the B1122 and additional measures provided by the early years scheme in Theberton and Middleton Moor [ER 5.5.219]. The provision of the TVB would also improve amenity of residents living either side of the A12 who would be bypassed and had the potential to improve the amenity of drivers using the A12. The ExA notes the scheme could result in harms to residents not currently affected by road traffic that should weigh against the scheme in the planning balance [ER 5.5.220].
- 4.176 The ExA note that whilst the Applicant promotes movement controls through the CTMP this only prevents vehicles leaving the MDS after 23.00 or arriving before 07:15. The DMS is a requirement of the CTMP to manage deliveries [ER 5.5.221]. The ExA recognises that one of the objectives of the CTMP is to minimise impacts on local communities and ensuring efficient management and delivery of the construction programme [ER 5.5.223]. In these circumstances if there were to be a conflict between these two objectives, the delivery of the programme would be prioritised by the Applicant and the contractors. The ExA

notes that residents would potentially be subject to significant adverse effects of Heavy Duty Vehicles (“HDV”) travelling through their communities, which could be in the evenings and late at night on inadequate roads [ER 5.5.225 et seq.]. The ExA is not satisfied the strategy adopted affords a suitable degree of protection for residents or highway users in the early years without the SLR in place, and considers the remedial mitigation through the DoO does not fully resolve this issue, particularly as there is no certainty on the timing of the delivery of these additional measures [ER 5.5.227].

4.177 The ExA considers additional measures could benefit the local community but is not satisfied even if they were delivered in advance of the main construction works commencing that they would remedy the problem arising from routing the construction traffic along the B1122 in the early years. The ExA ascribes moderate weight against making the Order in regard to this element of the amenity and recreational effects that arise in recognition of the temporary harms [ER 5.5.228].

4.178 The Secretary of State agrees with the ExA’s conclusions on these matters.

#### Biodiversity and Ecology Terrestrial

4.179 Section 5.6 of the ExA Report addresses terrestrial biodiversity and ecology issues, biodiversity net gain, and (in combination with Section 5.15) effects on ecological receptors from changes in marine water quality. All other matters on marine water quality are dealt within in Section 5.16 of the ExA Report [ER 5.6.1]. The ExA notes that at the end of the Examination, a large number of matters were not agreed between the Applicant and NE [ER 5.6.2].

4.180 The ExA notes [ER 5.6.4 et seq.] a range of relevant policy considerations for biology and ecology terrestrial, including NPS EN-1, NPS EN-6, the Habitats Regulations, the Nuclear Appraisal of Sustainability, the National Planning Policy Framework, the Government’s 25 Year Environment Plan 2018, the Suffolk Nature Strategy, the Suffolk Local Biodiversity and Action Plan, Suffolk’s Priority Species and Habitats list 2015, and the Suffolk Coastal Local Plan.

4.181 The ExA notes the relevant legal provisions including those set out in the Wildlife and Countryside Act 1981 (“W&C Act 1981”), and the Natural Environment and Rural Communities Act 2006 [ER 5.6.18 et seq.].

4.182 Matters on which the Applicant and NE were unable to reach agreement are set out in their final SoCG, with NE allocating issues with an Issue Number (“IN”) from the outset in its RR [ER 5.6.35]. Some of these INs are referenced below.

#### *Protected Species Licences*

4.183 With regard to IN10 – ecology: protected species’ mitigation, compensation and licencing approach for the project as a whole – NE confirmed that draft species licences were received, but that it was not in a position to issue Letters of No Impediment (“LoNI”). NE made a submission advising that it aimed to complete its review of the licence applications by 11 November 2021 [ER 5.6.43]. IN56

relates to Theberton bypass and protected species draft licences and is the same as IN10, and the ExA's position is the same as for IN10 [ER 5.6.200]. With regard to the associated development sites and protected species licences, the ExA refers to the SoCG between the Applicant and NE in which NE notes that it needs to undertake further reviews before being able to advise as to whether there is any fundamental reason as to why the licences should not be granted [ER 5.6.196].

- 4.184 The ExA notes that the Deptford Pink was identified in the Applicant's ES within the site on the sea defence and would need to be translocated, and that a licence would be needed for the translocation from NE [ER 5.6.264]. The ExA attributes substantial weight against the making of the Order to the harm to barbastelle bats and Deptford Pink and to the habitat of the latter [ER 5.6.267, ER 5.6.435].
- 4.185 The ExA notes that if licences cannot be obtained, that this would impact in varying degrees on the delivery of the Proposed Development [ER 5.6.265], and also notes that no LoNIs had been issued by the end of the Examination [ER 5.6.435]. The ExA concludes that subject to the outstanding licences, it is satisfied that the effects on protected species are satisfactorily addressed in the control documentation [ER 5.6.266]. The ExA considers that matters related to protected species licensing would not weigh against the making of the Order [ER 5.6.414]. The Secretary of State sees no reason to disagree with the ExA's conclusions on this matter.
- 4.186 With regard to IN37, relating to protected species mitigation and compensation for MDS effects, the ExA reiterates that the Secretary of State may wish to ascertain the up-to-date position from NE regarding protected species licences [ER 5.6.87].
- 4.187 In his letter of 31 March 2022, the Secretary of State sought information from NE regarding the outstanding licences. NE responded that LoNIs have now been issued to the Applicant for Natterjack toad, water vole, otter, and the great crested newt. NE confirmed that it is continuing to assess the draft licence application for badger and that it is awaiting amendments from the Applicant for the Deptford pink draft licence application. NE also advised that a LoNI for bats may take longer as it continues to work with the Applicant to resolve issues. The Secretary of State requested a further update from NE on this matter on 16 May 2022, specifically on the prospect of it being able to issue a LoNI for badger, Deptford pink and bats before the new statutory deadline. NE responded on 30 May 2022 that LoNIs had now been issued for all protected species except for bats. NE have provided the Applicant with a "letter of comfort" for bats, detailing that NE have not identified any aspects of their proposals that would mean a licence could not be issued in principle. NE stated that a large amount of information and further clarification remains outstanding from the current draft licence application for bats, meaning that a LoNI cannot yet be issued.
- 4.188 Whilst a LoNI cannot yet be issued by NE for bats, owing to outstanding information, the Secretary of State is content to accept that the letter of comfort provided by NE is a sufficient indication at this stage that a licence for bats

could be issued in principle. The Secretary of State notes that the protected species licence applications are currently in draft form, and formal submission of protected species mitigation licence applications by the Applicant to NE will be undertaken once the Order has been granted. The Secretary of State further notes that, should NE remain unsatisfied and require more information at that stage, then the Applicant will be required to resubmit the application with additional information as required, until NE is satisfied to issue the licence. The Secretary of State considers issues relating to protected species licensing to be resolved. The ExA's conclusion on barbastelle bats and Deptford pink does not take into account the issuing of LoNIs and the letter of comfort by NE since the close of examination. In light of these changes, the Secretary of State attributes moderate weight against making the Order in relation to potential harm to barbastelle bats and Deptford pink. This is on a precautionary basis, as whilst the protected species licences would only be issued if potential harm to barbastelle bats and Deptford pink is mitigated or compensated, the Secretary of State acknowledges the ExA's concern that translocation cannot be guaranteed to be successful.

#### *Airborne Pollution Impacts*

- 4.189 The ExA notes that this issue was narrowed to an HRA question alone in relation to the Minsmere European sites only [ER 5.6.416]. The ExA agrees with the Applicant's EIA conclusion of no likely significant adverse effects and no harm to the SSSI, and therefore considers that airborne pollution impacts do not weigh against the making of the Order [ER 5.6.416]. The Secretary of State sees no reason to disagree with the ExA on this matter.

#### *Collision Risk for Birds*

- 4.190 The ExA notes that with regard to NE's IN17 regarding ecological effects from physical interaction between species and Proposed Development infrastructure, the only remaining matter in relation to SSSIs is the risk of bird strikes with overhead lines and pylons [ER 5.6.48]. The ExA notes that the relevant SSSIs are the Alde-Orde Estuary and the Minsmere – Walberswick Heaths and Marshes SSSIs [ER 5.6.48]. The ExA considered that although NE would not have had the final opportunity to comment on the Terrestrial Ecology Monitoring and Mitigation Plan ("TEMMP") which sets out the relevant surveying for bird carcasses and subsequent requirements for retrofitting line markers where necessary, the TEMMP satisfactorily sets out the methodology, with no likely significant adverse effects and that the SSSI would not be harmed [ER 5.6.50, 5.6.417]. The ExA considers that matters relating to physical interaction between species and project elements would not weigh against the making of the Order [ER 5.6.417]. The Secretary of State sees no reason to disagree with the ExA's conclusion on this matter.

#### *Cumulative Assessment*

- 4.191 With regard to IN19: cumulative assessment, the ExA noted that NE requires the resolution of all outstanding issues alone before progress can be made on cumulative assessment, and considers that there have not been sufficiently robust assessments of impacts from all elements on the listed SSSIs and their

notified features, which it considers to be a crucial element of the EIA process [ER 5.6.51]. The ExA agrees with NE's view that all matters need to be resolved to address cumulative assessment [ER 5.6.53, 5.6.418]. The Secretary of State has sought to resolve outstanding issues in relation to potential impacts from the Proposed Development alone through consultation with the Applicant and Interested Parties in order to address NE's concerns regarding cumulative impacts.

*Ancient Woodland/Veteran Trees*

- 4.192 NE's IN21 concerns the loss of or damage to ancient woodland and ancient or veteran trees in relation to the MDS. The ExA is satisfied that the matters of fragmentation and severance have been taken into account in the ES [ER 5.6.61]. With regard to severance, and although not addressed by name, it can see the argument that the loss of species-rich hedgerows at Foxburrow Wood would be unlikely to lead to significant severance or harm as they do not connect with other habitats [ER 5.6.70]. The ExA does not agree with NE's view that fragmentation has not been considered, and considers that this matter would not weigh against the Order being made [ER 5.6.72]. In relation to Foxburrow Wood, the ExA considers that, given the Applicant's evidence that adverse effects on receptors are negligible in respect of air quality, the Applicant's conclusion of no significant effect is acceptable [ER 5.6.76]. With regard to ancient and veteran tree loss, the ExA concludes [ER 5.6.80] that the policy in relation to the removal of the related trees is met, and notes [ER 5.6.81] NE appears no longer to object. IN53 concerns the TVB and ancient woodland: the ExA concludes [ER 5.6.198] it is difficult to see this issue is any different from IN21 and its conclusions on IN21 also apply to IN53. The ExA considers [ER 5.6.421] that, as neither harm nor significant adverse effect are likely, loss or damage to ancient woodland and ancient or veteran trees in relation to the MDS would not weigh against making the Order. The Secretary of State sees no reason to disagree with the ExA's conclusion on this matter.

*Minsmere, the Marsh Harrier, Gadwall and Shoveler and SSSI waterbirds*

- 4.193 With regard to IN38, relating to the marsh harrier, gadwall and shoveler, the ExA concludes [ER 5.6.88] that harm to the Minsmere SSSI is likely. The ExA noted [ER 5.6.89 et seq.] a new sub-issue to IN38, relating to impacts from light, noise and visual disturbance on internationally and nationally designated sites and their notified features. The ExA notes [ER 5.6.268] that the Proposed Development will impact upon the birds' foraging in the wetland of the Sizewell Marshes SSSI. The Applicant began some years ago to establish a mitigation area at Abbey Farm for foraging, immediately adjacent to the RSPB's Minsmere bird reserve. The ExA also notes its conclusion in Chapter 6 of the Report, that the additional Westleton dry foraging site is not needed, but that should the Secretary of State take a different view he should be aware that there were submissions to the Examination advising that a better site was available [ER 5.6.269]. This prospect could not be explored in any detail before the close of Examination [ER 5.4.193].

- 4.194 The ExA ascribed moderate weight against making the Order unless wetland compensation is put in place and functional before the disturbance due to construction occurs [ER 5.6.88, 5.6.98, 5.6.423, 5.6.424].
- 4.195 In his letter of 18 March 2022, in relation to HRA, the Secretary of State sought information from the Applicant regarding the wetland habitat element of the marsh harrier compensatory habitat area in relation to potential effects upon the Minsmere-Walberswick SPA and Ramsar site, and functionally linked land. With consideration of the Applicant's revised timeline for the creation of wetland habitat and the responses of Interested Parties, the Secretary of State is satisfied that compensatory habitat will be in place and functional before the onset of disturbance impacts arising from the construction of the Proposed Development. Detailed HRA conclusions are set out in Section 5 of this letter and the Secretary of State's HRA. The Secretary of State therefore considers that the matter of the delivery of the wetland compensation has been satisfactorily resolved and ascribes neutral weight against the Order being made to this matter.
- 4.196 The Secretary of State notes that on 6 June 2022, a separate planning application was submitted to ESC seeking permission for the creation of a 4.52ha wetland habitat on land in the vicinity of Lower Abbey Farm. The Secretary of State notes that the area of land covered by this planning application to ESC is in the same location as the wetland habitat applied for as part of the Application as a compensatory measure. The RSPB and SWT wrote to the Secretary of State on 6 July 2022 raising their concerns with the designs included in the application to ESC. The Secretary of State notes these concerns but is satisfied that the design of the wetland compensation area submitted as part of this Application for development consent is adequately secured through Requirement 27 of the Order.

#### *Coastal Processes*

- 4.197 IN39 relates to changes to coastal processes and is relevant to the Minsmere – Walberswick Heath and Marshes SSSI. The ExA considers that the Applicant revised both the Preliminary Design and Maintenance Requirements for the Sizewell C Coastal Defence Feature report and the draft Coastal Processes Monitoring and Mitigation Plan at deadline 10 to acknowledge that the vegetated shingle still exists and to state that native particle size material would be used for recharge, satisfies the concerns raised by NE and RSPB/SWT [ER 5.6.101]. The ExA notes there is therefore no outstanding disagreement on this matter. The ExA considers the impacts from changes to coastal processes would not weigh against making the Order [ER 5.6.425]. The Secretary of State agrees with the ExA's conclusion on this matter.

#### *SSSI Crossing Design*

- 4.198 With regard to the design of the Sizewell Marshes SSSI Crossing, the ExA notes that by the end of the Examination, ESC considered that the crossing offered a reasonable compromise for landscape and ecological purposes, but is worse than the three-span option due to the greater landtake. SCC's position differed from ESC's, and at the end of the Examination it remained opposed to

the single span design introduced as Change 6 (“Change 6”) as it favoured the three-span bridge [ER 5.6.210]. NE’s SoCG stated that whilst it prefers a three-span bridge, the Change 6 design represents the best alternative, and welcomed the improved connectivity between Aldhurst Farm and Sizewell Marshes SSSI achieved by using an improved mammal culvert under the dividing road [ER 5.6.211]. In the EA SoCG, the agreed SSSI Crossing position is that the Change 6 design results in environmental adverse effects being reduced to an acceptable level, provided the construction accords with the revised plans secured by Requirement 20.

- 4.199 The Applicant’s major argument for Change 6 over the three-span bridge is that the latter would only reduce the land take from the SSSI by 200 square metres but it would take 6-12 months longer to deliver, delaying the delivery of the Proposed Development for which there is an urgent need [ER 5.6.248].
- 4.200 The ExA agrees with the Applicant’s conclusion that the urgent need for the proposal clearly outweighs the impacts from the Change 6 design over the three-span bridge alternative on the SSSI [ER 5.6.253]. The Secretary of State agrees with the ExA conclusion. The ExA noted that the Secretary of State may need to reconsider this conclusion if the ExA’s recommendation that the SLR is provided in advance of construction is accepted [ER 5.6.431]. However, the Secretary of State has decided not to follow the ExA’s recommendation that the SLR is provided in advance of construction for the reasons set out in the Traffic and Transport Sections of this letter. The Secretary of State agrees with the ExA that, in those circumstances, the benefits of the Change 6 design do outweigh the adverse impacts.

#### *Reedbed*

- 4.201 NE’s IN48 relates to permanent landtake from the Sizewell Marshes SSSI and the impacts on the reedbed and ditches, with the ExA noting that the bridge design for the SSSI crossing is the issue, as NE prefers the three-span bridge design over the Change 6 bridge [ER 5.6.102]. The Applicant considers that the advance delivery of 6 hectares of wetlands at Aldhurst Farm would address the loss of 3 hectares due to the construction of the SSSI crossing, and the construction of the three-span bridge would take significantly longer and would delay the operation of the power station and the production of low carbon energy [ER 5.6.103]. The ExA concludes that the Application proposal for the single span bridge results in a loss of 200m<sup>2</sup> more of the SSSI than the three-span bridge [ER 5.6.114].
- 4.202 The ExA concludes that, in view of NE’s agreement in the SoCG, the reedbed habitat has been satisfactorily re-provided at Aldhurst Farm [ER 5.6.116]. Given that the reedbed has already been provided, the ExA ascribes little weight to this matter against making the Order [ER 5.6.432]. The Secretary of State agrees with the ExA’s conclusion on this matter.

#### *Fen Meadow*

- 4.203 NE’s IN49 relates to the permanent landtake from the Sizewell Marshes SSSI and the loss of fen meadow. The ExA notes that the loss of fen meadow does not occur due to the SSSI crossing [ER 5.6.120]. The ExA notes the Applicant’s

proposal to recreate fen meadow at three offsite locations, with NE specifying that the amount recreated is to be nine times the amount lost, giving an area of 4.14ha [ER 5.6.122]. The ExA notes the Applicant's confidence that 4.14ha of fen meadow can be recreated on the three sites within an 11 year timescale [ER 5.6.123]. The ExA concludes that the draft Fen Meadow Plan ("FMP") and Fen Meadow Strategy documents go as far as can be expected in all the circumstances to ensure that fen meadow will be successfully recreated [ER 5.6.173]. The ExA notes that the Fen Meadow Contingency Fund ("FMCF") is secured in the DoO and it can be used over wider East Anglia, although NE object to the limitation to East Anglia given the national importance of fen meadow [ER 5.6.175].

- 4.204 The ExA considers that the success of the recreation of fen meadow will only be known once the scheme has been undertaken, and the FMCF is set at a level that incentivises effort to achieve success and provides funds for improvement and recreation elsewhere [ER 5.6.178]. The ExA is satisfied with the Applicant's answers given to NE's critiques of the FMP, although it notes that the answers do not remove all doubt [ER 5.6.179]. The Secretary of State notes that an updated FMP was produced in October 2021. The ExA notes that Requirement 25 provides for the final Fen Meadow Plans to be approved by ESC or SCC, in consultation with NE, and that the plans must include details of "water management measures" [ER 5.6.223]. The ExA considers this satisfactorily addresses the hydrological and flood risk implications of the proposed use of land at Pakenham as fen meadow [ER 5.6.224].
- 4.205 The ExA concludes the Applicant's proposals to recreate fen meadow are acceptable, noting the Fen Meadow Compensation Fund coupled with the continuing obligation to use reasonable endeavours to deliver the fen meadow are strong drivers to delivering it [ER 5.6.250, ER. 5.6.433]. Given the loss of fen meadow is likely to be temporary, the ExA attributes moderate weight to this matter against making the Order [ER 5.6.433]. The Secretary of State agrees with the ExA's conclusion on this matter.

#### *Wet Woodland*

- 4.206 NE's IN50 relates to permanent landtake from the Sizewell Marshes SSSI and the provision of wet woodland to support the SSSI invertebrate assemblage. The ExA notes this is linked with the SSSI crossing, and that NE is satisfied with the quantity of wet woodland and the compensatory sites selected, but considers the best chance of success would be by using a natural ecohydrological regime [ER 5.6.182]. The Secretary of State notes that an updated version of the Wet Woodland Strategy was produced in October 2021. The ExA advised that the Secretary of State should obtain this version of the Wet Woodland Strategy and check that this revision only addresses the revised landtake figures [ER 5.6.189]. The Secretary of State confirms that, other than updates to reference numbers of documentation like the Fen Meadow Plan, the only other revisions provided in this updated version of the document are to the landtake figures.



- 4.207 The ExA ascribes moderate weight against making the Order to the loss of wet woodland [ER 5.6.251, 5.6.434]. The Secretary of State agrees with the ExA's conclusion on this matter.

*Other Designated Sites*

- 4.208 The ExA notes that the other SSSIs assessed with minor adverse effects identified are the Orfordness to Shingle Street SSSI, the Minsmere to Walberswick Heaths SSSI, and the SSSIs underpinning the Sandlings Special Area of Conservation ("SAC") [ER 5.6.278]. With regard to Orfordness to Shingle Street SSSI, the ExA concludes that the benefits of the Proposed Development clearly outweigh the residual adverse effects [ER 5.6.279]. With regard to the Suffolk Sandlings SPA, the ExA concludes there are no relevant issues in relation to the SSSIs which underpins this SPA, and accepts the Applicant's conclusion of minor adverse effect which is considered to be not significant [ER 5.6.280]. With regard to Minsmere – Walberswick SSSI and the Alde-Ore Estuary SSSI, the ExA attributes little weight to matters relating to the issue against making the Order [ER 5.6.282, 5.6.436]. However, the ExA ascribes substantial weight against the Order being made due to the moderate adverse significant effect (as concluded by the Applicant) from the partial loss of Suffolk Shingle Beaches County Wildlife Site ("CWS") and the Sizewell Levels and Associated Areas CWS [ER 5.6.283 et seq.]. The Secretary of State agrees with the ExA's conclusions that substantial weight should be ascribed against the Order being made in respect of this matter.

*The Two Village Bypass ("TVB")*

- 4.209 The ExA notes that protected species, other designated sites, ancient woodland, veteran trees, and the route of the TVB are relevant [ER 5.6.290]. The ExA agrees with the Applicant's conclusion that, taking mitigation into account, there are no significant adverse effects and the ExA is satisfied on the main issues and other issues for the TVB so far as biodiversity is concerned [ER 5.6.312].
- 4.210 The ExA ascribes little weight to matters, including the loss of three veteran trees, in relation to the TVB [ER 5.6.439]. The Secretary of State agrees with the ExA's conclusion on this matter.

*Sizewell Link Road ("SLR")*

- 4.211 The ExA identifies [ER 5.6.313] the main biodiversity and ecology issues related to the SLR as protected species, mitigation for loss of watercourses, and mammal and invertebrate surveys. The ExA notes [ER 5.6.323, 5.6.326] that other than protected species licensing, there were no outstanding points between the Applicant and NE, and the Applicant and the EA in relation to the SLR by the end of the Examination. The ExA notes [ER 5.6.326] that the EA requested the insertion of the SLR Watercourse Crossing Mitigation Note [REP6-024] into the SLR Landscape and Ecology Management Plan ("LEMP"), but could not see that this was incorporated, and the Secretary of State may wish to satisfy himself on this. On 31 March 2022, the Secretary of State requested the Applicant to provide an update to the SLR LEMP to include the mitigation measures detailed in the note. The Applicant provided a revised

version of the SLR LEMP which includes the note both in references and in a new appendix. The Applicant confirmed that the EA supported this approach, and the Secretary of State considers this to be resolved. The ExA notes [ER 5.6.327] that the RSPB/SWT Written Representation raised issues in relation to bats and the SLR, but by the end of the Examination this had narrowed to whether there should be additional crossing point surveys. The ExA notes the position of the Councils and is satisfied that the issue has been adequately addressed.

- 4.212 Having considered the evidence of other parties, the ExA agrees with the Applicant's assessment of no likely significant adverse effects (taking mitigation into account) and attributes no weight to the ecological effects arising from the SLR against making the Order [ER 5.6.330, 5.6.441]. The Secretary of State agrees with the ExA's conclusion on this matter.

*Northern Park and Ride ("NPR")*

- 4.213 The ExA notes that the main issue related to protected species, with particular concerns on whether the ecological parts of the ES were adequate [ER 5.6.331]. The Applicant's ES concluded that after mitigation there were no significant ecological impacts [ER 5.6.333]. The ExA notes the nearby Heveningham Hall Estate submitted an extensive Written Representation which raised a number of issues, including the adequacy of the ecological surveys carried out and how Pond 78 (which is important for great crested newt ("GCN") mitigation) was to be protected and secured, as well as the need for landowner consent for protection of a different on-site pond [ER 5.6.335 et seq.]. The ExA notes that the few concerns the Councils had relating to ecological matters at the NPR were met during the course of the Examination [ER 5.6.340].
- 4.214 The ExA does not disagree with the Applicant's assessment of no significant adverse effects, except in relation to GCNs, on account of the uncertainty of obtaining landowner consent for mitigation [ER 5.6.341]. The ExA noted that the Secretary of State may wish to update himself on whether an alternative site for GCN mitigation is necessary, and if so the certainty of another site being delivered. On 31 March 2022, the Secretary of State requested the Applicant to provide an update as to whether landowner consent had been obtained for GCN mitigation at the Northern Park and Ride. The Applicant replied that in discussion with NE, it had decided to use the alternative District Level Licencing ("DLL") approach for GCN at the NPR, which allows developers to make financial contributions to strategic, off-site habitat compensation. This removes the requirement for the Applicant to provide on-site mitigation including translocation. The application for a DLL was accepted by NE, and NE stated that it had issued a LoNI for GCN. The Secretary of State therefore considers this is resolved.
- 4.215 The ExA considers no biodiversity or ecological matters relating to the NPR would weigh for or against making the Order [ER 5.6.343, 5.6.444]. The Secretary of State agrees with the ExA's conclusion on this matter.

### *Yoxford Roundabout*

- 4.216 The ExA notes that the main issue related to the Yoxford Roundabout and biodiversity and ecological impacts is protected species [ER 5.6.344]. The LIR identified a neutral impact to Roadside Nature Reserve 197 which hosts the Sandy Stilt Puffball fungus (“Puffball”), a protected fungi species, on account of which it is designated. The ExA notes that the site is hydrologically linked to other protected sites, which were also scoped in to the ES [ER 5.6.347].
- 4.217 The ExA attributes substantial weight to the impacts on the Puffball against making the Order [ER 5.6.353, 5.6.445]. In other respects, the ExA is satisfied that the Applicant has properly assessed the effects and notes that policies 5.3.15 and 5.3.17 of NPS EN-1 are dealt with separately in its report, with the other relevant policies in EN-1 met [ER 5.6.354, 5.6.446]. The Secretary of State agrees with the ExA’s conclusion on this matter.

### *Southern Park and Ride (“SPR”)*

- 4.218 The ExA notes that the only Important Ecological Feature taken forward for assessment is bats [ER 5.6.355]. The ExA notes the ES identified no significant effects and that Change 10, which included changes at the SPR, did not alter that assessment [ER 5.6.356]. The ExA notes that NE had no specific issues relating to the SPR, with the only relevant issue being protected species and their licencing (for further consideration of this matter see paragraph 4.183 to 4.188 above) [ER 5.6.358]. The ExA is satisfied that the assessment of likely significant effects is robust and appropriate [ER 5.6.359, 5.6.447], and considers there are no biodiversity or ecological matters relating to the SPR that would weigh for or against the Order being made [ER 5.6.360, 5.6.447]. The Secretary of State agrees with the ExA’s conclusion on this matter.

### *Freight Management Facility*

- 4.219 Similarly to the SPR, the ExA notes that a bat assemblage was the only Important Ecological Feature scoped into the ES [ER 5.6.361, 5.6.448], and notes that the Councils, in their LIR, identified that the impact on bats would be neutral [ER 5.6.363]. The ExA notes that after mitigation, the Applicant’s ES identified no significant adverse effects [ER 5.6.365]. The ExA is satisfied that the assessment of likely significant effects is robust and appropriate [ER 5.6.366, 5.6.449], and considers there are no biodiversity or ecological matters relating to the FMF that would weigh for or against the Order being made [ER 5.6.367, 5.6.449]. The Secretary of State agrees with the ExA’s conclusion on this matter.

### *Rail Extension*

- 4.220 The ExA notes that the Councils’ LIR did not identify any impacts from the rail extension route, and that by the end of the Examination NE’s only issue was the need for protected species licences [ER 5.6.370 et seq.]. The ExA notes that the Applicant’s assessment did not find any significant adverse effects after mitigation [ER 5.6.373], and the ExA is satisfied that the assessment of likely significant effects is robust and appropriate, with the relevant policies met [ER 5.6.374]. The ExA considers that this matter does not weigh against the Order

being made [ER 5.6.450]. The Secretary of State agrees with the ExA's conclusion on this matter.

*Biodiversity Net Gain ("BNG")*

- 4.221 The Applicant submitted a BNG report with the Application, which was updated at Deadlines 1 and 5. The ExA notes that although there was considerable discussion and criticism of the reports, BNG reports are not required by law or policy for NSIPs [ER 5.6.376]. The Applicant submitted a further note on BNG to the Planning Inspectorate on 2 November 2021. The ExA affords the BNG calculation limited benefit but, given that there is no legal basis for doing a BNG assessment, considers that the Applicant has gone over and above what is required [ER 5.6.384]. The ExA attributes little weight to the benefits that would arise from the BNG contribution to making the Order [ER 5.6.451]. The Secretary of State agrees with the ExA's conclusion on this matter.

*Biodiversity Benefits and Good Design*

- 4.222 The ExA is satisfied that the Applicant has maximised opportunities for building in biodiversity benefits as part of good design where possible, with the Estate Wide Management Plan and Outline Landscape and Ecology Management Plan setting out objectives and general principles for the establishment and longer-term management of newly created landscape areas [ER 5.6.385]. The ExA notes that the Natural Environment Improvement Fund aims for projects to help mitigate residual adverse landscape and visual impacts of the Proposed Development and to deliver sustainable long-term management and maintenance of woodlands, hedges and vegetation that contribute to the conservation and enhancement of landscape character and biodiversity [ER 5.6.387]. The ExA considers that the Applicant has provided opportunity for building in beneficial biodiversity features within the Proposed Development [ER 5.6.389]. Taking into account the residual adverse effects on biodiversity elsewhere and the need for discharge of post-consent approval to deliver what is intended by the outline control documents, the ExA attributes little weight to the biodiversity elements of good design against the Order being made [ER 5.6.390, 5.6.452]. The Secretary of State agrees with the ExA's conclusion on this matter.

*Mitigation Plans and Compensation Habitat Strategy*

- 4.223 The ExA notes that the final version of the Wet Woodland Strategy was in error not submitted at Deadline 10 [ER 5.6.392]. The Secretary of State can confirm that this was submitted by the Applicant and was published on the PINS website on 21 April 2022.
- 4.224 With regard to the On-site Marsh Harrier Compensatory Strategy, the ExA notes that the Secretary of State may wish to satisfy himself as to any consequential amendments to this strategy in relation to the creation of the habitat and the timing of this [ER 5.6.393]. The Secretary of State asked for information on this point in his letter of 18 March 2022, and this matter is addressed in full in Section 5 of this letter and in the Secretary of State's HRA.

4.225 Whilst there were many comments from IPs on the plans not all of which were accepted by the Applicant, the ExA considers that relevant issues have been addressed to the satisfaction of East Suffolk Council and Suffolk County Council and statutory advisers [ER 5.6.395]. The ExA is also satisfied the system for approval and enforcement of mitigation and monitoring plans and governance are satisfactory.

*The Natural Environment and Rural Communities Act 2006 (“NERC Act”) and Wildlife and Countryside Act 1981 (“W&C Act 1981”) and policies 5.3.11 and 5.3.17 of EN-1*

4.226 The ExA is satisfied that the duty in Section 40 of the NERC Act has been met and that the Secretary of State can be assured that he would meet his own duty [ER 5.6.405]. The ExA also notes that the duty in Section 41 of the NERC Act falls upon the Secretary of State who will need to come to his own conclusion on it if he grants the Order. With regard to Section 41, in light of the mitigation measures and certified documents secured in the Order, and with regard to the Secretary of State’s HRA, the Secretary of State is content that such steps have been taken which appear to the Secretary of State to be reasonably practicable to further the conservation of living organisms and types of habitat which are of principle importance for the purposes of conserving biodiversity. He is therefore satisfied that the duty in Section 41 of the NERC Act has been met.

4.227 The ExA notes policy 5.3.17 in NPS EN-1 [ER 5.6.405] requires consent to be refused where there is harm to species of principal importance for the conservation of biodiversity. However, the ExA acknowledges it is unrealistic to expect that a development on this scale with the wide range of species and habitats specified in the policy could take place without some harm given the policy’s wide ambit, and that the balance mentioned in the second part of policy 5.3.17 is engaged. The ExA ascribes substantial weight against making the Order not only to the significant adverse effects on the Barbastelle bat and Deptford Pink but also to any other harm to species and habitats within the policy but notes that applying the planning balance, the benefits of the development do outweigh the harm.

4.228 The ExA also notes [ER 5.6.411] with regard to policy 5.3.11 of EN-1, the adverse effects on sites and on the national network of SSSIs are clearly outweighed by the very substantial benefits of the Proposed Development and they are not a reason not to make the Order.

4.229 Section 28I(2) of the W&C Act 1981 states that “*Before permitting the carrying out of operations likely to damage any of the flora, fauna or geological or physiological features by reason of which a site of special scientific interest is of special interest, a section 28G authority shall give notice of the proposed operations to Natural England*” and the ExA considers [ER 5.6.412] that the duty falls on the Secretary of State to comply with this. The Secretary of State disagrees with the ExA’s interpretation of the operation of s28I and is of the view that Natural England will have received notice of the application and have provided their views and advice to the Secretary of State throughout the examination. In his letter of 31 March 2022, the Secretary of State asked NE to confirm if they agreed that the examination had met the requirements to give

NE notice of the proposed operations and time to respond. NE responded, advising that they did not consider that the Examination had met the requirements. In a further letter of 25 April 2022 the Secretary of State maintained his disagreement with the ExA's and NE's view, but for the avoidance of doubt and to avoid any further delay, the Secretary of State issued a formal notice to NE at Annex A of that letter which the Secretary of State considers has discharged this legal requirement in the event that his view is incorrect. This letter contains the statement of how the Secretary of State has taken into account the advice of Natural England. The Order itself comes into force 21 days after being made.

#### *Overall Conclusions on Policy*

- 4.230 The ExA is satisfied [ER 5.6.453] that the Applicant has carried out the environmental assessment as required in paragraph 5.3.3 and 5.3.4 of NPS EN-1. With regard to policy 5.3.11 of NPS EN-1, the ExA concludes [ER 5.6.454] that the very substantial benefits of the Proposed Development outweigh the impacts on the SSSIs and national network of SSSIs. The ExA also concludes [ER 5.6.455] that the benefits of the Proposed Development outweigh any harm to species and habitats of principal importance for both national and regional biodiversity and that therefore policy 5.3.17 in NPS EN-1 is complied with. The ExA notes [ER 5.6.456] that, as required by policy 5.3.15 of NPS EN-1, the Applicant has taken advantage of opportunities to build in biodiversity benefits. The ExA concludes [ER 5.6.457] that, subject to its conclusions on European sites, there are no matters which cause it to come to a different conclusion from the Applicant's assessment of cumulative, project wide, inter-relationship or other cumulative effects. Similarly, the ExA concludes that subject to its conclusions on European sites, it is satisfied that the Proposed Development is in accordance with the policies in section 5.3 of NPS EN-1 [ER 5.6.458].
- 4.231 The Secretary of State agrees with the ExA's conclusions on this matter.

#### Climate Change and Resilience

- 4.232 The ExA notes the relevant legal and policy considerations, including NPS EN-1, NPS EN-6 and the revised draft of NPS EN-1 published for consultation on 6 September 2021, European Law and related national legislation & national, regional and local policies [ER 5.7.1 et seq.]. In addition the ExA has had regard to The Carbon Budget 2021 and Section 10(3)(b) of the Planning Act 2008 ("PA2008") which refers to the desirability of mitigating and adapting to climate change [ER 5.7.3].
- 4.233 A revision to the NPPF was published on 20 July 2021 supported by updated EA guidance on climate change allowances on the same date [ER 5.7.9]. The EA clarified that UKCP18 Projections were used in the updated guidance. Section 14 of the NPPF considers climate change, flooding and coastal change. Paragraph 152 states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should, amongst other things, help to support renewable and low carbon energy and associated infrastructure [ER 5.7.10]. Other relevant

policy includes the East Inshore and Offshore Marine Plans; The Suffolk Climate Action Plan and The Suffolk Coastal Local Plan (Section 9) [ER 5.7.11 et seq.].

- 4.234 The ExA notes that paragraphs 26.5.21 to 26.5.38 of the ES summarises measures to mitigate the effects of climate change on the Proposed Development [ER 5.7.14 et seq.]. The Planning Statement Final Update and Signposting document provided updates to sections 1-10 including a number of changes that the Applicant has made since the submission of the application [ER 5.7.28]. The Final Update and Signposting document Appendix A [REP10-068] provides an assessment of the Proposed Development against draft NPS EN-1 [ER 5.7.29]. Matters arising during the course of the Examination are set out at [ER 5.7.31 et seq.].

*Climate change resilience, adaptation, and site suitability*

- 4.235 EN-6, paragraph 2.10.6, requires the decision-maker to have regard to advice from the Nuclear Regulators, in particular the ONR and the EA, in relation to climate change impacts, and their views on the adaptation measures proposed to address them [ER 5.7.47]. The question whether the Proposed Development is designed to have robust defences against the site-specific external hazards would also form part of the Nuclear Site Licence (“NSL”) considerations [ER 5.7.47]. The ExA considers the ONR’s response in [REP2-159] suggests it is likely that the Applicant’s approach to assessing and managing climate change, including adaptation measures, will meet ONR’s expectations for the NSL [ER 5.7.47].
- 4.236 In relation to the consideration of alternatives, the ExA concludes that the fact that the Applicant has not considered an alternative site for the location of the proposed nuclear power station represents an entirely reasonable and proportionate approach [ER 5.7.48]. The ExA has considered the role of the ONR in assessing site suitability as part of the NSL process and has also considered the criticisms made by IPs of the reliance placed on EN-6 which is considered in the ‘Policy and Need’ section of the ExA Report. The ExA’s position is that EN-6, and its identification of Sizewell C as a potentially suitable site, remains an important and relevant consideration [ER 5.7.48].
- 4.237 The ExA notes [ER 5.7.49] those aspects of Professor Blowers’ and other IPs’ submissions relating to the ability of the Proposed Development to safely withstand the external effects associated with climate change during the long period it would occupy the site are relevant to coastal processes and flood risk. The ExA consider that subject to mitigation measures being assessed as providing satisfactory mitigation for the necessary period, they do not consider that the suitability of the site needs to be revisited, as a matter of principle, in light of climate change [ER 5.7.49]. The proposed mitigation measures designed to achieve resilience, and the provision for future adaptation are set out at [ER 5.7.33 et seq.]. The ExA’s conclusions on flood risk at the MDS and elsewhere are considered in the Flood Risk, Ground Water and Surface Water section as is their conclusions on adaptive design in the Coastal Geomorphology section.

- 4.238 Whilst the ExA agrees that the risk of additional scenarios occurring as referred to at [ER 5.7.51 et seq.] is expected to increase as the impacts of climate change become more severe, it considers that the Coastal Processes Monitoring and Mitigation Plan (“CPMMP”) would provide an appropriate mechanism to identify and address coastal changes beyond those predicted by the modelling and assessment work which has been undertaken, including any cumulative impacts [ER 5.7.53]. The ExA also concludes in relation to the Sizewell B salient, and the associated implications for the resilience of the coastal defences, that the CPMMP recharging mitigation would remain effective following the cessation of the Sizewell B (“SZB”) operation [ER 5.7.53].
- 4.239 In his letter of the 18 March 2022 the Secretary of State asked the Applicant what, if any effects the cessation of operations at Sizewell B might have on the Coastal Processes Monitoring & Management Plan recharging mechanisms for the Soft Coastal Defence Feature (“SCDF”). The Applicant responded that this would have no direct effect on the CPMMP mechanism. It is designed to be part of an adaptive environmental assessment and management process and as such provides a structured, iterative process of robust decision-making, reducing uncertainty over time through comprehensive monitoring which is specified in the CPMMP. The Applicant considers cessation of SZB’s operation is expected to influence coastal processes and the shape of the shoreline locally. The CPMMP would continue to monitor the SCDF volume and determine when, where, and how much mitigation is needed, as well as the recommended type of mitigation. The CPMMP will identify stages of alert in advance of a trigger to ensure timely mitigation, regardless of its cause. The Applicant notes it is in close contact with the operators of SZB and would expect early notice of the end of their operations.
- 4.240 The Secretary of State has considered the ExA’s Report and the information provided by the Applicant in response to his letter. He has also considered the post-Examination submissions of Mr Paul Collins regarding the adequacy of the modelling and assessment provided by the Applicant. The Secretary of State considers the information does not sufficiently weigh against the proposal to justify a departure from the conclusions of the ExA and the Applicant, which have considered how the cessation of Sizewell B’s operation is expected to influence coastal processes. The Secretary of State has further considered that the CPMMP would allow for comprehensive monitoring and mitigation. The Secretary of State agrees with the ExA’s conclusions on these matters.
- 4.241 The ExA finds the Applicant’s assessment to be suitably precautionary in its consideration of climate change and is cognisant of the uncertainty associated with the prospect of environmental change [ER 5.7.54]. The ExA concludes the assessment has appropriately taken into account the potential effects of climate change for the period required by EN-1 [ER 5.7.54]. The ExA is therefore content that in accordance with EN-1, paragraph 5.5.7, the assessment of the Proposed Development has taken account of potential impacts from climate change and that any adverse impacts resulting from it on other parts of the coast would be minimised [ER 5.7.55]. It further considers that in light of EN-1, paragraph 5.5.10 the Proposed Development would be resilient to coastal erosion and deposition, taking account of climate change, during its operational life and any decommissioning period. The assessments have shown the



necessary resilience and the suitability of the proposed adaptation measures for the Proposed Development [ER 5.7.55]. The ExA concludes that all potential impacts of climate change in relation to these matters have been appropriately taken into account and with those measures secured there would be no adverse implications arising from the siting of the Proposed Development in this coastal location [ER 5.7.55]. The Secretary of State agrees with the ExA's conclusions on this matter.

*Green House Gas Emissions ("GHG") and carbon footprint*

- 4.242 The ExA notes that many IPs have raised issues and concerns in relation to GHG emissions resulting from the Proposed Development [ER 5.7.56]. The Final SoCG between the Applicant and TASC records areas of disagreement concerning the adequacy of the Applicant's evidence on the carbon impacts of the construction, decommissioning and storage phases remain unchanged. Other concerns are set out at [ER 5.7.57 et seq.] and at the close of the Examination TASC indicate that they remain concerned that they have not had access to the Applicant's detailed carbon footprint calculations, and the level of the carbon debt from the full lifecycle of the Proposed Development and that it is clear that carbon produced will have increased from the original application figures [ER 5.7.60]. Theberton and Eastbridge PC submit that the operational waste heat vented to the environment has not been assessed against Paris Agreement, 2050 net zero commitments or the UK Committee for Climate Change reports [ER 5.7.61]. The ExA concludes [ER 5.7.90] that the updated ES demonstrates that construction emissions from the Proposed Development would be less than 1% of the UK Government's carbon budget for the relevant period, and would not be significant in accordance with the criteria described in Chapter 26 of the ES [APP-342]. The ExA is content that those emissions would not materially affect the Government's ability to meet the UK's obligations under the Paris Agreement. Similarly, the ExA report that the gross emissions associated with the operational phase have been found to be less than 1% of relevant periods in which they arise [ER 5.7.90]. The ExA also recognises the support in national policy for low carbon power generation projects such as the Proposed Development [ER 5.7.90], considered in the Policy and Need section of this letter.
- 4.243 In respect of the ICCI the ExA considers that the ES Chapter 26 explains the limitations associated with the approach taken for the ICCI assessment which relate to uncertainties inherent within UKCP18 Projections. To overcome uncertainty issues, forecast climate change data from UKCP18 has been used coupled with the replication of proven effective approaches undertaken for similar project types [ER 5.7.91 et seq.]. The ExA is satisfied that the Applicant's further explanation on the ICCI assessment set out in the ES, Volume 2, Chapter 26 has appropriately considered the combined impact of the Proposed Development and future climate change on receptors in the surrounding environment [ER 5.7.93]. It finds no reason to disagree with the conclusion of the ICCI assessment in the ES that there would be no significant ICCI impacts on identified receptors in the surrounding environment [ER 5.7.93]. The Secretary of State agrees with the ExA's conclusions on this matter.

### *The ExA's Overall Conclusions*

- 4.244 The ExA considered the relevance of EN-1 section 4.8 when developing and consenting infrastructure and considers that in accordance with section 4.8, the updated ES has assessed how the Proposed Development would take account of the projected impacts of climate change including climate change adaptation [ER 5.7.94]. Furthermore, the ES has taken into account the potential impacts of climate change using the latest UK Climate Projections at the time it was prepared and the assessment covers the estimated lifetime of the new infrastructure up to the end of the decommissioning period. The ES concludes there would be no significant climate change impacts or effects associated with the Proposed Development. The ExA finds the Applicant's assessment suitably precautionary in its consideration of climate change and appropriately recognises the uncertainties that remain [ER 5.7.94].
- 4.245 In relation to EN-1, paragraph 4.8.8, the ExA refers [ER 5.7.95] to the Applicant's explanation that critical features of the scheme would be located on the main platform of the MDS which has been set to 7.3m Above Ordnance Datum ("AOD"). This is to ensure that it would be raised above extreme sea levels, considering sea level rises for the reasonably foreseeable climate change scenarios (i.e. up to the 1 in 10,000 year event in 2140). The specific nature and adequacy of the proposed adaptation measures are considered in detail in the Coastal Geomorphology and Flood Risk, Groundwater, Surface Water sections of the decision letter. The ExA concludes that the Applicant has demonstrated that it has satisfied the requirements of both EN-1 and EN-6. The same conclusions are reached in relation to flood risk along the SLR and the TVB and other associated development [ER 5.7.96].
- 4.246 For coastal change the ExA concludes that the Adaptive Design would provide a feasible means of increasing the crest height of the Hard Coastal Defence Feature ("HCDF"), so the sea defence could adapt to a credible maximum sea level rise should that scenario develop [ER 5.7.97]. The ExA concludes positively in relation to the resilience of the Proposed Development to coastal erosion and deposition during the operation life and decommissioning period. The ExA notes those conclusions were reached notwithstanding the matters raised in relation to the Sizewell B salient and the gaps identified by the EA. As recommended by the ExA on 18 March 2022, the Secretary of State requested confirmation from the EA on the Preliminary Design and Maintenance Requirements related to the SCDF provided by the Applicant at DL10 that it satisfied its remaining concerns in relation to modelling and further analysis for the SCDF, and consequently the HCDF, including any implications for resilience and the cumulative impact assessment. The EA's response noted that the Applicant continued to work with the EA (and others) since the Examination ended to bring this matter to a close, and as a result prepared an additional report (BEEMS Technical Report TR553 "Modelling of Soft Coastal Defence Feature under Design Basis Conditions" v2) to address the outstanding issues. The EA confirmed that, having reviewed the report, it has resolved its concerns that remained at the close of the Examination. The Secretary of State also requested information on the effects of the Sizewell B cessation of operation might have on the CPMMP recharging mechanisms for

the SCDF. This is considered also in the Coastal Geomorphology section of this letter.

- 4.247 The ExA notes that the possible effects of climate change will be taken into account in the ONRs determination of the site suitability as part of the ongoing assessment of the NSL [ER 5.7.98]. The ExA concludes in relation to EN-1, paragraph 4.8.8, that there are no features of the design of new energy infrastructure critical to its operation which may be seriously affected by more radical changes to the climate beyond that projected in the latest set of UK climate projections, taking account of the latest credible scientific evidence and that necessary action can be taken to ensure the operation of the infrastructure over its estimated lifetime [ER 5.7.99]. In respect of EN-6, paragraph 2.10.2 the ExA concludes that the proposed adaptation and mitigation measures have appropriately taken into account climate change impacts and the coastal location [ER 5.7.99]. The ExA is content that all relevant mitigation measures would be secured through the Order [ER 5.7.99].
- 4.248 On GHG emissions, the ExA concludes that emissions of the magnitude demonstrated would not have a significant effect on the UK's ability to meet its carbon budget commitments or the ability of the Government to meet the UK's obligations under the Paris Agreement and would be consistent with the aims of relevant regional and local plan policies [ER 5.7.100]. Given the status of the draft NPS the ExA attaches little weight to it. Nevertheless, the ExA does not find the current application inconsistent with the aims of Part 2 and Section 4.9 of the draft EN-1 [ER 5.7.101].
- 4.249 The ExA concludes that all potential impacts of climate change including those associated with the siting of the MDS in this coastal location have been appropriately taken into account [ER 5.7.102]. The provision of mitigation and adaptation measures would ensure no significant climate change effects on or arising from the Proposed Development consistent with the Government's aims of achieving sustainable development through mitigating and adapting to climate change. The ExA considers there are no matters relating to climate change impacts which would weigh for or against the Order being made [ER 5.7.102].
- 4.250 The Secretary of State agrees with the ExA's conclusions on the above matters.

#### Coastal Geomorphology

- 4.251 The relevant national legislation and policy considerations for coastal geomorphology and hydrodynamics assessment include those set out at [ER 5.8.1 et seq.] and are provided in Appendix 6P of Volume 1 of the ES [APP-171]. The relevant national policy is contained with NPS EN-1 section 5.5, NPS EN-6, and the UK Marine Policy Statement [ER 5.8.2 et seq.]. At DL7, the Applicant submitted a checklist against the East Inshore and East Offshore Marine Plans, 2014 to test and demonstrate compliance. Other relevant policies include the Suffolk Coastal District Local Plan (Policy SCLP9.3), and the Suffolk Shoreline Management Plan (Policy SMP7) [ER 5.8.14 et seq.].
- 4.252 The Applicant's general approach has been informed by data presented in Appendix 20A to Chapter 20, Sizewell Coastal Geomorphology and

Hydrodynamics Synthesis for Environmental Impact Assessment (Marine Synthesis Report 1) [APPR-312] [ER 5.8.16 et seq.]. The Fourth Environmental Statement Addendum – Volume 1: Main Text Revision 1.0 [REP7-030] has been provided in relation to additional information and Change 19 for the temporary desalination plant. Chapter 5 of the ES Description of Decommissioning sets out the Applicant’s approach to decommissioning [ER 5.8.22] and Appendix 2B provides an update to decommissioning [ER 5.8.24]. These state that for the EIA the end of operation of the power station is assumed to be in the 2090s. By the 2140s the Interim Spent Fuel Store (“ISFS”) will have been decommissioned and 2190 has been assumed as the theoretical maximum site lifetime [ER 5.8.24].

- 4.253 The Planning Statement [REP10-068], section 8.4 Coastal Change seeks to demonstrate how the Proposed Development would accord with national and local policy [ER 5.8.25 et seq.]. The Planning Statement Final Update and Signposting document (part one) provides an update against Sections 1-10 of the Planning Statement. This identifies that since submitting the application the Applicant has increased the height of the permanent HCDF to 12.6m AOD, the maximum crest height of the adaptive sea defence to 16.4m AOD, and the minimum crest height of the SSSI crossing to 8.6m [ER 5.8.29]. The Applicant’s National Policy Statement Tracker [REP10-125] sets out why the Applicant considers the Proposed Development would comply with EN-1 paragraphs 5.5.6, 5.5.7, 5.5.9 to 5.5.17 and with EN-6 paragraphs 3.8.3 to 3.8.5 [ER 5.8.30].
- 4.254 The construction methodology for the sea defence is set out in ES Volume 2, Chapter 3 Description of Construction [APP-184]. This explains that the area currently benefits from protection by the Bent Hills, a man-made bund structure constructed as part of the landscaping scheme for Sizewell B. They extend from south to north along the top of the shore, merging to the north with an east-west feature known as the Northern Mound. For the Proposed Development a new HCDF would be required which would replace the Bent Hills. To protect Sizewell C once the power station is operational, the Northern Mound would act as part of the HCDF. The sea defences would retain and extend the existing 5m high sacrificial sand dune in front of the HCDF, known as the SCDF [ER 5.8.31]. The permanent parameters for sea defences is in ES Volume 2, Chapter 3 Description of Permanent Development [APP-180] and the ES Addendum update to those design parameters [ER 5.8.31].
- 4.255 The Sizewell C Coastal Defences Design Report describes the engineering design of the proposed sea defences [ER 5.8.32]. This document has been updated with design review and optimisations since the submission of the original application. The principal outcomes of these optimisations is to reduce the seaward extent of the toe of the HCDF, a paring-back of the HCDF alignment at the BLF/Northern Mound area, and elimination of the sheet piled temporary HCDF around the Northern Mound. The main features of the design are set out at [ER5.8.33 et seq.].
- 4.256 The ES Volume 2, Chapter 20 [APP-311], indicates that the Sizewell frontage is comparatively stable compared to neighbouring shorelines [ER 5.8.39]. In Appendix 20A of the ES the Expert Geomorphological Assessment (“EGA”)

concludes that without mitigation, the shore would erode back within a few decades following construction of the Proposed Development, risking exposure of the HCDF by 2053-2087. This would occur naturally, irrespective of whether the Proposed Development takes place or not. The proposed SCDF would be deliberately sacrificial, releasing sediment in major storm events that would reduce erosion rates along the frontage. The SCDF would be recharged as necessary in order to maintain the beach and which would prevent the HCDF being exposed over the lifetime of the power station, including decommissioning avoiding significant impacts on neighbouring shorelines [ER 5.8.39]. The Sizewell C Coastal Defences Design Report sets out further detail of the design of the SCDF, the SCDF and Beach Maintenance, SCDF and BLF interface, Adaptive Design Trigger Levels for Adaptive Design, Minimising eastward extent of the HCDF, and the alignment at BLF. The Sizewell C Coastal Defences Design Report sets out further detail of the design of the SCDF, the SCDF and Beach Maintenance, SCDF and BLF interface, Adaptive Design Trigger Levels for Adaptive Design, Minimising eastward extent of the HCDF, and the alignment at BLF [ER 5.8.40].

- 4.257 Matters arising during the course of the Examination include the assessment principles adopted by the Applicant; assessment of potential impacts; strategies for managing the coast as set out in the Shoreline Management Plan (“SMP”); potential impacts on coastal processes and geomorphology; adequacy of the proposed climate change adaptation measures and the resilience of the Proposed Development and mitigation and controls [ER 5. 8 41 et seq.].

*The ExA’s considerations*

- 4.258 The ExA considerations of the assessment principles adopted by the Applicant is considered at [ER 5.8.42 et seq.]. The assessment of coastal geomorphology is set out in the ES Chapter 20 [APP-311] and is based on methods outlined under the MarESA framework and CIEEM guidelines to ensure compatibility with marine ecology assessments [ER 5.8.57]. The ExA notes that the evidence base used to underpin the assessments, have been developed and discussed with the coastal geomorphology subgroup of the Marine Technical Forum (“MTF”) and the scope of the assessment established through a formal EIA scoping process [ER 5.8.58]. The SoCG between the Applicant and the MMO [REP10-094] records for coastal geomorphology and hydrodynamics that all items are agreed, including the overarching methodology for the assessment of impacts [ER 5.8.60]. The SoCG with the EA was supportive of the overarching approach to modelling but noted gaps in the work done to date [ER 5.8.61].
- 4.259 The ExA notes [ER 5.8.62] that careful consideration of the criticisms made by IPs of the scope of the assessment principles adopted by the Applicant has been given, however it is reassured by the standard methods used, the EIA scoping process that was followed and the role of the MTF. Subsequent modelling has been provided reflecting the timescale sought by statutory consultees, it therefore considers that the assessment principles adopted are satisfactory and fitting [ER 5.8.62].

- 4.260 The ExA considered whether the potential coastal impacts of the Proposed Development can be satisfactorily assessed from the information submitted by the Applicant by the close of the Examination [ER 5.8.63 et seq.] it requested additional information and modelling, including information sought by a number of IPs including ESC, MMO, EA and NE [ER 5.8.89]. Although the final SoCG between the Applicant, ESC and SCC records several areas of disagreement, the Councils did not request further modelling or assessments [ER 5.8.90]. The Joint LIR Review confirms that whilst ESC did not agree that a worst case/precautionary approach had been presented in the assessment of coastal impacts, it did not consider that further assessments would resolve this matter. The ESC relies upon the obligation in the CPMMP to sustain the longshore sediment transport process. Furthermore, the DL10 submission contains other relevant additional information that they seek. ESC considers there is a defined pathway to resolving matters through ongoing discussions leading to the approval of the HCDF and SCDF design under Requirement 19 in the Order [ER 5.8.90].
- 4.261 The Fourth ES Addendum [REP7-032] confirms that for the purposes of the EIA, it is assumed that the end of operation of the power station will be in the 2090s. By the 2140s, the Interim Spent Fuel Store (ISFS) will have been decommissioned, and 2190 has been assumed as the theoretical maximum site lifetime [ER 5.8.91]. Additional modelling was provided by the Applicant during the Examination in response to the EA's request which the ExA considered [ER 5.8.92 et seq.].
- 4.262 At DL10 the Applicant submitted the Preliminary design and maintenance requirements for the Sizewell C Soft Coastal Defence Feature (Version 4) TR544 [ER 5.8.95]. The ExA considers that the modelling of the additional scenarios sought by the EA would add to the knowledge base, and that the risk of those scenarios occurring is expected to increase as the impacts of climate change become more severe [ER 5.8.96]. However, the ExA agrees that the CPMMP would provide an important mechanism to identify and address coastal changes beyond those predicted by the modelling and assessment work. The ExA also notes that the modelled scenarios provided prior to the submission of the latest version of TR544 show that maintenance of the SCDF would be viable throughout operation and decommissioning [ER 5.8.96].
- 4.263 The ExA notes that whilst the Applicant's updated TR544 submission shows that the SCDF volume would be substantially larger than required to withstand two to three severe sequential storms, that other IPs including relevant statutory consultees, did not have the opportunity to comment on this information and it did not therefore place reliance upon that document in reaching conclusions on this topic. However, it considers that given the role of the CPMMP as a means for addressing future uncertainty, the earlier assessments are sufficient to enable the potential coastal impacts of the Proposed Development to be satisfactorily assessed [ER 5.8.97].
- 4.264 The Secretary of State's letter of 18 March 2022 requested confirmation from the EA that the Preliminary Design and Maintenance Requirements for the SCDF (Version 4) TR544 [REP10-124] provided by the Applicant at DL10 satisfies its remaining concerns in relation to modelling and further analysis for

the SCDF, and consequently the HCDF, including any implications for resilience and the cumulative impact assessment. The EA noted that the Applicant continued to work with it (and others) since the Examination ended to bring this matter to a close, and as a result prepared an additional report (BEEMS Technical Report TR553 “Modelling of Soft Coastal Defence Feature under Design Basis Conditions” v2) in an endeavour to address the outstanding issues. The EA confirmed that TR553 has resolved the concerns that remained at the close of the Examination. The Applicant provided the report to the Secretary of State, together with a position statement between parties (confirming the latest position); and an updated coastal geomorphology statement of common ground which confirms that the EA and the Applicant are agreed on a number of matters. The Applicant has advised that further work is required to develop and approve the CPMMP, secured under requirement 12 and DML condition 14, which will define the triggers for when recharge is required, and will commit the Applicant to continued dialogue with all relevant coastal authorities to identify, discuss and, where necessary, mitigate emerging issues.

- 4.265 A number of representations on this matter were received in response to the Secretary of State’s letter inviting all Interested Parties to comment on the responses to his letters. These included detailed submissions from Nick Scarr raising concerns on how the Applicant had approached coastal considerations, modelling and assessment including the BEEMS TR553 report, which were endorsed by a number of IP’s including Suffolk Coastal Friends of the Earth.
- 4.266 The Secretary of State recognises the concerns of the IPs, and has considered the ExA’s, ESC and the EA’s positions. The Secretary of State considers that the Applicant’s modelling and assessment have been considered in detail as part of the Examination and in post Examination submissions and, having noted that these matters are agreed with the EA the Secretary of State is satisfied that this matter has been adequately considered and suitable controls are in place for ongoing maintenance and management of the Coastal Defence features through the CPMMP.
- 4.267 With regards to the consideration of Tsunami Risk the ExA has considered the Applicant’s written responses to AI.1.4 and CG.2.0 together with the Sizewell C Coastal Defences Design Report – Revision 1.0 and the DL8 update of that document. The Applicant indicates that all external hazards, including those associated with coastal flooding such as tsunami, are being treated as part of the Nuclear Safety Case in line with regulation, standards and relevant good practice including the NSL conditions. The sea defences form part of the protection against coastal flooding and their design includes consideration of the associated hazard [ER 5.8.98]. A bespoke analysis has been carried out for the Proposed Development site in order to characterise the hazard base using reports issued by DEFRA and that a “Storegga-type” event has been considered within this assessment [ER 5.8.99]. The ExA takes the view that the Applicant’s approach is in accordance with EN-6, paragraphs 2.7.3 and 2.7.4, and that any further safety assessment in relation to this matter is appropriately considered within the remit of the Nuclear Regulators [ER 5.8.99].

- 4.268 In relation to the Change 19 request for the desalination plant, the MMO sought clarity from the Applicant that the headworks would be located on the outside of the offshore longshore bar. The SoCG between those parties has provided clarification and the ExA is content that the necessary information to resolve this matter has been provided [ER 5.8.100].
- 4.269 The ExA's overall conclusions [ER 5.8.362 et seq.] have considered the detailed criticisms made by IPs of the scope of the assessment principles adopted by the Applicant, for example Stop Sizewell C's report by Professor Derek Jackson and Professor Andrew Cooper [REP2-449r], regarding the Applicant's study in relation to future timescale, spatial scale, dynamics of the nearshore banks, no consideration of the complex system behaviour and the false assumptions underlying the EGA [ER 5.8.42]. The ExA considers that insofar as the overarching methodology for the assessment of effects is concerned, it believes the Applicant's assessment principles to be satisfactory and fitting [ER 5.8.362]. The latest version of TR544 [REP10-124] has been considered in paragraphs above, for the reasons given the Secretary of State is therefore satisfied that this matter has been adequately resolved.
- 4.270 The ExA considered the implications of the Proposed Development for the Strategies for managing the coast as set out in the Shoreline Management Plan ("SMP") [ER 5.8.101 et seq.]. Both the Applicant and ESC agree that the discrepancy between text and plan is attributable to an inaccuracy in the plan and the ExA has considered the application on this basis [ER 5.8.103]. The ExA concludes there would be a breach of Shoreline Management Plan ("SMP") policy MIN 13.1 [REP1-072] which is a policy to hold the line of coastal defence features [ER 5.8.113]. The final SoCG between parties [REP10-102] indicate that this matter is not agreed, but ESC considers that non-compliance with the policy will be acceptable if the Applicant demonstrates that the HCDF is as landward as possible. ESC agrees that the matter can be dealt with through the discharging of the relevant requirement in the Order and there is a pathway to resolving such matters [ER 5.8.116]. The ExA considers that the HCDF has been positioned as landward as possible. In addition, the Order requirement provides a means whereby the design details of the HCDF, including layout, would require ESC approval in consultation with the MMO and the EA before commencement of the work. Given those circumstances, it does not find that the Proposed Development would have any substantive implications for the overall SMP strategy for managing the coast [ER 5.8.117]. This is considered in the overall planning balance section of this letter.
- 4.271 The ExA notes that the matter of whether or not a further EGA is to be carried out was raised by a number of IPs. For example, the National Trust's ("NT") submission at ISH6 seeks a full EGA once all elements of the Proposed Development are defined and not subject to further substantive change. NT consider it imperative to have a report that looks specifically at the totality of all the assessments so that cumulative impacts of the Proposed Development can be acknowledged. [ER 5.8.118 et seq.]. This and related issues were raised by various IP's including the representations of TASC, Mr Bill Parker, Mr Nick Scarr and in post examination representations from Mr Paul Collins and Mr Nick Scarr who considered the Applicant's submissions. The ExA does not consider that further EGA to be necessary as it has the benefit of input provided by



statutory consultees and other IPs, including expert evidence during the Examination. In addition, the MTF, (EA, MMO, ESC and NE) serves to provide independent scrutiny of the assessments, monitoring and mitigation during pre-application, the Examination, and post Examination. The ExA considers this provides robust scrutiny of the Applicant's evidence, and that a further EGA would not be necessary [ER 5.8.123]. The Secretary of State, having considered the ExA's conclusion and the post-examination representations, agrees with the ExA on this matter.

- 4.272 The ExA considered [ER 5.8.124 et seq.] IP's detailed submissions and criticisms related to the Applicant's approach in respect of the vulnerability of the coastline to erosion, in particular, the role played by the Sizewell-Dunwich banks and the Corraline Crag and how it will continue to influence coastal processes. In respect of the Sizewell-Dunwich banks the ExA notes [ER 5.8.147/148] that in contrast ESC and the EA are satisfied that the Applicant's assessment of these features is robust and the EA advises there is no strong evidence to suggest the system would lose these controls in the lifetime of the Proposed Development [ER 5.8.147]. The CPMMP is an adaptive plan which would respond to the changes or loss of features in the future. It would undergo regular review through the life of the Proposed Development which means that any necessary changes to monitoring extent or mitigation could be made, if approved by ESC and the MMO [ER 5.8.151]. Although IPs have highlighted the Applicant's change in approach to the role of the banks and potential consequences should they be lost, the ExA agrees with the EA that the Applicant's assessment is suitably precautionary and that the updated CPMMP, includes monitoring techniques that are targeted to the elements of the coastal geomorphology receptors. The ExA concludes that the CPMMP would provide an appropriate mechanism to pick up fluctuations in bank topography, and this is a matter that can be safely left to that process [ER 5.8.152].
- 4.273 It further concludes that the CPMMP now includes targeted monitoring techniques, and it is proposed to extend the five-yearly background environmental monitoring to include the Thorpeness Corraline Crag outcrops, and ensure that any unexpected natural changes which may affect impact are detected [ER 5.8.153]. The ExA concludes that appropriate mitigation for these features would be secured through the CPMMP, and has no outstanding concerns in this respect [ER 5.8.367].
- 4.274 The ExA notes [ER 5.8.155 et seq.] concerns from IPs in relation to the timescales and extent of the Applicant's coastal assessment. The ExA considers the evidence supports the view that the effects would be contained within Greater Sizewell Bay and the Applicant's approach to focus on that area to be entirely reasonable [ER 5.8.168]. The Applicant's assessments have established the scale, extent and significance of the potential impacts using standard EIA approaches, and the effect significance was classified as minor or negligible. The ExA accepts that the impacts are likely to be localised and would be minimised and confined through design, and would be monitored and mitigated, if necessary [ER 5.8.169]. At ISH11 the Applicant responded to concerns raised by IPs in relation to the geographical scope of the SCDF modelling, this shows that the shingle material would be contained within

Greater Sizewell Bay with minimal potential for any effect to move around the headland. The ExA agrees the impacts are likely to be small, and proposed monitoring extents are larger than anticipated impacts. The ExA is also content that the Applicant could see early from monitoring if any of the predictions were not correct, and would be able to adjust for those, if necessary. The ExA finds the spatial scale of the Applicant's coastal processes assessment to be entirely reasonable and proportionate in its extent [ER 5.8.170].

- 4.275 The ExA recognises the great concern to many IPs about whether other locations, such as Southwold, Thorpeness and Aldeburgh, should be included in baseline monitoring and mitigation proposals [ER 5.8.171 et seq.]. Since the CPMMP is adaptive, the ExA is content that should the impacts approach or exceed the monitoring extents, then this would provide an appropriate means for the extent of monitoring to be expanded as necessary [ER 5.8.186]. The ExA considers that the evidence supports the view that the effects would be contained within Greater Sizewell Bay and finds the Applicant's approach to focus on this area appropriate [ER 5.8.368]. The ExA finds the spatial scale of the Applicant's coastal processes assessment to be entirely reasonable and proportionate in its extent. The ExA concludes it is not necessary for other locations to be included in the baseline monitoring and mitigation proposals, and that the CPMMP would provide a satisfactory means of achieving that outcome in the unlikely event that impacts would be greater in extent and nature than predicted [ER 5.8.368].
- 4.276 The potential impacts upon the Minsmere frontage, and the role of the Minsmere sluice is considered by the ExA at [ER 5.8.189 et seq.]. The concerns of the RSPB, SWT and NE relate to the vegetated shingle feature and particularly the supra-tidal shingle that is currently present along that southern Minsmere frontage, which is an internationally important recognised feature, part of the Minsmere to Walberswick Heath and Marshes SAC and Minsmere to Walberswick Ramsar feature [ER 5.8.192]. Potential impacts to sites within the National Site Network are considered in the HRA section of this letter and in the Secretary of State's HRA. This matter is considered in the Biodiversity and Ecology Terrestrial section of the report. The ExA concludes that the applicant has provided the necessary evidence to support the conclusion that since the Proposed Development would not affect the wave and tidal flows that determine the quantity of sediment which reaches this location, the natural function of the sediment transport around the sluice outfalls would not be affected by it and therefore it would not affect the sluice's ability to discharge [ER 5.8.369].
- 4.277 The ExA has considered the potential impacts associated with the permanent beach landing facility, during the construction phase, the impacts of any dredging, and the barge berthing platform. The ExA considers that matters raised by ESC, NE and the MMO on these impacts have been addressed by the Applicant and concludes that the monitoring and mitigation provided for by the CPMMP, and secured by the draft Order and Deemed Marine Licence ("DML"), would provide the necessary safeguards in relation to impacts on any dredging associated with the permanent Beach Landing Facility ("BLF"), the Marine Bulk Import Facility ("MBIF") or barge berthing platform [ER 5.8.370].

The Secretary of State consideration of the HRA aspects raised by NE are considered in the findings and conclusions section of this letter.

- 4.278 The ExA [ER 5.8.231] notes that careful consideration has been given to the concerns of IPs in relation to the fragility of the coastline and the potential cumulative impacts of the Proposed Development. The ExA considers the CPMMP would provide an appropriate mechanism to identify and address coastal changes beyond those predicted by modelling and assessment work undertaken, including any additional cumulative impacts [ER 5.8.371]. The Secretary of State has also given consideration to the EA's response to his letter of 18 March 2022 on agreed matters.
- 4.279 The ExA considers [ER 5.8.232 et seq.] the adequacy of the proposed climate change adaptation measures and the resilience of the Proposed Development to ongoing and potential future coastal change during its operational life and any decommissioning period including the scope for the HCDF to undergo design adaptation to maintain nuclear safety against predicted sea level rises. The Sizewell Coastal Defences Design Report [REP8-096] provides a design description of the HCDF Adaptive Design at section 3.11 and is designed to protect the Proposed Development from a 1 in 10,000 year storm event with reasonably foreseeable ("RF") climate change effects up to the end of its design life in 2140. The ExA consider that the Applicant recognises that, given the inherently uncertain nature of climate change, the RF climate change scenario may be exceeded. ONR and EA guidance requires that the sea defence be capable of adaptation to a credible maximum sea level rise [ER 5.8.252]. The sea defences have therefore been designed to allow for future adaptation to accommodate the credible maximum scenario, should it develop. The Adaptive Design would provide a simple means of increasing the crest height of the HCDF to reach a crest level of 16.4m OD [ER 5.8.252]. The implementation of measures to enact the Adaptive Design would be driven by progressively observed effects of climate change, specifically mean sea level rise. The MDS FRA [AS-018] confirms that the impacts of climate change on sea level rise would be monitored and assessed at set intervals to determine the trajectory of the projections, and consider whether there is any change from either the current considered projections or the climate change guidance as applied in the application [ER 5.8.253]. A number of issues were raised by IPs in relation to Adaptive design and its implementation [ER 5.8.254 et seq.]. Having considered the submissions and responses from the Applicant [ER 5.8.252 et seq.] the ExA takes the view that as indicated in relation to the SMP, and having regard to the details and explanation provided by the Applicant, that the HCDF, including the Adapted Design, would be positioned as landward as possible. In addition, the requirement 19 in the Order would provide a means whereby the design details of various aspects of the HCDF would require ESC approval in consultation with the MMO and the EA before commencement of that work. The ExA considers that this would provide an appropriate safeguard at detailed design stage in relation to matters relating to layout, scale and external appearance of the HCDF, and its integration with other marine infrastructure [ER 5.8.256].
- 4.280 As regards to the feasibility of implementation, particularly given the prospect of sea level rise, the Sizewell C Coastal Defence Design Report section 4.4

[REP8-096] explains that the core and associated foundations required to support the Adaptive Design would be installed as part of the initial Permanent Sea Defence construction. The report provides further details on how the Adaptive Design would then be implemented in full at a later date, and what those works would entail [ER 5.8.257]. On the question of ground conditions, the Applicant provided a response in CG.3.10 [REP8-116] in relation to ground improvement. The details of the proposed ground improvement would be prepared during the detailed design stages for the HCDF pursuant to requirement 19 of the Order. The ExA considers this to be an appropriate means of securing the details of the ground improvement works and with the role of the ONR, there would be adequate safeguards in terms of ensuring the resilience of this feature in the long-term [ER 5.8.258]. The ExA concludes that the Adaptive Design would provide a feasible means of increasing the crest height of the HCDF so that the sea defence could adapt to a credible maximum sea level rise should that scenario develop as a result of climate change. The ExA is content that appropriate arrangements would be in place for monitoring and assessing the impacts of climate change on sea level rise to determine the trajectory of the projections, that in turn would enable implementation of the Adaptive Design to occur before the threshold was reached [ER 5.8.260]. The Secretary of State has also given consideration to the EA's response to his letter of 18 March 2022 on agreed matters.

- 4.281 The Applicant's updated CPMMP at Deadline 10 [REP10-041], in response to concerns raised by a number of IPs makes a clear commitment to use sediment within the native particle size [ER 5.8.300]. At [ER 5.8.261 et seq.] the resilience of the Proposed Development, taking account of climate change in response to shoreline evolution and change scenarios over the anticipated site life is considered. This includes the impacts on the Sizewell B salient (an accumulation of beach sediment opposite the Sizewell B outfall), and in relation to potential risk posed to either site in the long-term. This includes submissions by Mr Paul Collins on behalf of Theberton and Eastbridge Council, Stop Sizewell C and Minsmere Levels Stakeholders Group [REP8-280]. The ExA's view, having considered the EA comments on Coastal Processes in response to the Sizewell C Coastal Defences Design Report and the Storm Erosion Modelling of the Sizewell C SCDF [REP9-020], is that because the detailed layout of sea defences is subject to the approval process (pursuant to discharge of requirement 19 of the Order), taking the evidence as a whole, the ExA find the risk posed by the Sizewell B salient to be overstated. The ExA does not consider that the effects of the Sizewell B cessation of operation would be such to render the CPMMP recharging mitigation, to ensure maintenance of the sea defences, ineffective. The ExA is of the view that there is sufficient evidence to enable it to reach a conclusion on this matter [ER 5.8.308 et seq.].
- 4.282 In his letter of the 18 March 2022, the Secretary of State asked the Applicant what, if any effects the Sizewell B cessation of operation might have on the CPMMP recharging mechanisms for the SCDF. This is also considered in the Climate Change and Resilience section of this decision letter. The Secretary of State has considered the Applicant's response which sets out how the salient has operated, informed by the BEEMS Technical Report TR311, and the ExA's position that there is sufficient evidence to reach a conclusion. The Secretary of State is therefore content that the effects of the Sizewell B cessation of

operation has been satisfactorily assessed and he agrees with the ExA on this matter.

- 4.283 Further, the ExA has considered [ER 5.8.310 et seq.] the risk posed by the Sizewell B defences to either site in the long term, including Mr Nick Scarr's submissions [REP7-218 to REP7-220] highlighting that the adjoining Sizewell B has a 10m AOD sea defence crest height, and the new sea defence for the Proposed Development (14.6-16.4m AOD) does not appear to cover the frontage of Sizewell B. The Applicant responded [REP8-116] to explain that the Sizewell B and Proposed Development Sea defences are conceived to protect against wave run-up and excessive overtopping throughout the life of the respective stations. The key objectives of the Proposed Development's sea defences are to protect it without placing any reliance on the presence or condition of the Sizewell B sea defences, or prejudice the continuing operation of Sizewell B's Sea defences, Since the Proposed Development's sea defences are required to protect that site for a longer period than Sizewell B's Sea defences are required to protect that site, provision is made for the former to have a higher crest level, addressing the higher potential for climate change effects to occur during the life of the Proposed Development [ER 5.8.312].
- 4.284 The ExA agrees that the different crest levels of the sea defences for Sizewell B and the Proposed Development should not be seen as a discrepancy, but rather reflecting their different and independent functions. Furthermore, the design parameters of the sea defences would be secured by Requirement 19 [ER 5.8.313].
- 4.285 Various IPs made submissions in relation to climate change implications for coastal processes and the safety and security of the site [ER 5.8.273 et seq.]. The ExA considers the Applicant's assessment has given appropriate consideration to the climate change implications for coastal processes including sea level rise projection and timeline. In addition, the ONR would need to be satisfied the site would be protected from external hazards, taking full consideration of climate change and extreme events, prior to issuing the NSL [ER 5.8.317]. In response to Professor Blowers' concerns on the security of stored nuclear wastes on site in the context of climate change and sea level rise, the Applicant confirmed that the ES made no specific projections for coastal change that far into the future. Instead, the approach is to extend assessment of the function of the proposed mitigation (SCDF) beyond 2100 and this further modelling of more extreme future coastal conditions has been provided in [REP7-045]. The ExA is content with that approach and considers the 2140 timeline to be reasonable and appropriate in those circumstances [ER 5.8.318]. The ExA has considered matters raised in relation to the need for the Proposed Development, site suitability, radiological issues and matters specific to climate change [ER 5.8 319] and they are covered in the relevant sections on Alternatives, Climate Change and Resilience, Policy and Need and Radiological considerations of this letter.
- 4.286 The ExA consider that the Applicant has appropriately taken into account climate change during the necessary period. In light of EN-1, paragraphs 5.5.10, the ExA is satisfied that the Proposed Development would be resilient

to coastal erosion and deposition, taking account of climate change, during its operational life and any decommissioning period [ER 5.8.320].

- 4.287 At [ER 5.8.321 et seq.] the ExA set out the submission of IPs on the mitigation and controls including the draft Order, the DML and the CPMMP. Some clarification of the drafting of requirements in the Order are considered at [ER 5.8.338 et seq.]. The ExA consider that given the clarification of the phrase in “general accordance” in the interpretation of Requirement 1(4) that Requirement 2 would be effective in securing the CoCP measures, and no amendment of the drafting is required. In respect of Requirement 12 the ExA considers it would be effective in securing the approval and implementation of the CoCP measures. The ExA notes that the latest draft of the CPMMP responds to issues raised during the Examination including monitoring and survey methods, and mitigation triggers. In relation to the proposed desalination plant at Change 19 the ExA considers that given the mitigation secured through the CPMMP no additional provision for mitigation or coastal impacts is required in this regard. With regards to Requirement 19 of the Order, that requires details of the layout, scale, and external appearance of the permanent BLF, the SCDF, the permanent HCDF preceded by the temporary HCDF, and the temporary MBIF are submitted to and approved by ESC in consultation with the MMO, and the EA, before the commencement of that work. The ExA consider this would be effective in securing the submission approval, and implementation of the details of the matters which it encompasses, and no amendment of the drafting is required. The ExA considers that the necessary monitoring, mitigation and controls are incorporated within the latest revisions of the draft Order requirements, the DML and the CPMMP and, with these controls in place, the Proposed Development will not inhibit sediment flow or have an adverse impact on coastal processes at other locations [ER 5.8.377].
- 4.288 The ExA considered [ER 5.8.344 et seq.] additional requirements, including those related to the Marine Technical Forum (“MTF”) and whether the Maintenance Activity Plan (“MAP”) would be necessary to address adverse physical changes to the coast. ESC and the Applicant agreed that the MTF would be secured through the DoO and terms of reference are included at Annex I [REP10-082]. It notes that IPs suggested that the MTF membership should have a broader base including landowners. Its members include the Applicant, MMO, EA, NE and ESC and the intention is to continue its role post-consent. ESC confirmed that they had agreed with the Applicant that the MTF would be secured through the DoO [ER 5.8.350]. Since the MTF includes relevant statutory environmental bodies, and the local coastal authority the ExA does not consider a broader base membership to be specified at the outset to be necessary. However, it welcomes the scope for additional participation with the agreement of its members when specific issues were being discussed [ER 5.8.351]. The ExA notes that with the inclusion of the MAP in Condition 31 of the DML that a separate requirement of the draft Order is not necessary [ER 5.8.352].
- 4.289 The ExA [ER 5.8.353 et seq.] has considered the differing views of IPs on the requirement for the removal of the HCDF at decommissioning to be included in the draft Order, including from the Minsmere Levels Stakeholders Group, Stop

Sizewell C, Theberton and Eastbridge Parish Council and Mr Paul Collins, the National Trust, TASC and Professor Blowers. The Applicant has confirmed that the forecast date (2140) when the HCDF is no longer needed to protect the site, is the date by which all nuclear materials and safety functions will have been removed from the site, following its decommissioning, and removal of spent fuel from the site [ER 5.8.358]. The Applicant does not consider there to be any technical reason which would prevent removal of the HCDF after decommissioning and the CPMMP records the default position for its removal. A decision would be subject to assessment at the time in accordance with the CPMMP [ER 5.8.359]. The ExA considers that this provides an appropriate means of addressing this issue, and no separate requirement in the Order is therefore necessary [ER 5.8.361].

- 4.290 The ExA concludes [ER 5.8.373] that the Adaptive Design would provide a feasible means of increasing the crest height of the HCDF so that the sea defence could adapt to a credible maximum sea level rise should that scenario develop as a result of climate change. The ExA considers that the proposed development complies with the requirements of EN-1 and EN-6 relating to climate change adaptation, including EN-6 paragraph 2.8.2 which relates to good design [ER 5.8.373].
- 4.291 As referred to above the CPMMP makes a clear commitment to use the native particle size as the default assumption. If future modelling should indicate that this may no longer be feasible, the MTF must agree any proposed change in approach. The ExA considers this matter to be satisfactorily resolved together with the concerns raised regarding the extent of the monitoring should coarser sediment be used [ER 5.8.374].
- 4.292 The ExA concludes that, in accordance with EN-1 paragraph 5.5.10, the Proposed Development would be resilient to coastal erosion and deposition, taking account of climate change, during its operational life and any decommissioning period [ER 5.8.375]. The ExA considers the risk posed by the Sizewell B salient to be overstated and that the CPMMP recharging mitigation would remain effective following the cessation of the Sizewell B operation [ER 5.8.376].
- 4.293 The ExA concludes in relation to EN-1 paragraph 5.5.7 that the assessment of the Proposed Development has taken account of potential impacts from climate change and any adverse impacts would be minimised [ER 5.8.378]. It would also be consistent with the UK Marine Policy Statement and would not conflict with the aims of regional planning policies. The ExA recognises this is an area that is vulnerable to coastal change, and EN-1 indicates that the Government's aim is to direct development away from such areas, and this is considered in the conclusions section of this letter. However, the ExA is satisfied that appropriate monitoring and mitigation would be in place to ensure management of any risks to the Proposed Development, and to secure the long-term sustainability of the coastal area. Therefore, the ExA concludes there are no matters relating to Coastal Geomorphology and Hydrodynamics which would weigh for or against the Order being made [ER 5.8.379]. The Secretary of State has considered the information provided following his further consultation. The Secretary of State agrees with the ExA's conclusions on these matters.

## Community Effects

- 4.294 Policy relevant to the consideration of community effects include EN-1, paragraph 4.2.2 which expects the Applicant to set out information within their ES on the likely significant social and economic effects and show how likely significant negative effects are avoided or mitigated. Paragraph 4.2.4 refers to effects being adequately assessed and paragraph 5.12.3 advises that the assessment should consider all relevant socio-economic impacts [ER 5.9.6]. The ExA notes that the Secretary of State should have regard to the potential socio-economic effects and should consider any relevant positive provisions the Applicant has made or proposes to make, to mitigate for adverse impacts and any legacy benefits that may arise [ER 5.9.7]. The Sizewell C Non-Technical Summaries for the ES and ES Addendum identifies significant adverse effects which are recognised as having an effect on the local community [ER 5.9.262].
- 4.295 Other relevant policy considerations include paragraph 130(f) of the NPPF and East Suffolk Local Plan policy SCLP 3.4. The Applicant's case is set out at [ER 5.9.10 et seq.]. The Community Impact Report produced sets out the scope and approach agreed with ESC and SCC. The Community Impact Report was divided into 6 areas Leiston, Yoxford, Saxmundham, Aldeburgh and Snape, the rest of East Suffolk, and neighbouring local authorities and outer areas. The Community Impact Report refers to effects in other chapters of the ES, in recognition of the inter-related nature of these matters [ER 5.9.13].
- 4.296 The ExA notes matters that arose during the Examination in relation to Community Effects including the concerns of a significant number of parish and town councils, interest groups and public service providers [ER 5.9.89 et seq.]. Many of the issues raised can affect communities in both positive and negative ways and are covered in individual chapters and in the cumulative assessment chapter. As such the ExA do not duplicate what they assess but seek to draw on the elements raised to form conclusions in respect of the effects on the communities [ER 5.9.92 et seq.].

### *The ExA's considerations*

- 4.297 The accommodation strategy was the subject of ExA questions and discussion during the Examination [ER 5.9.122 et seq.]. The timing for accommodation provision was explored further and whether back stop arrangements would safeguard the local community from the potential harms that could materialise if the accommodation strategy did not deliver the bed spaces forecast to be required in a timely manner [ER 5.9.125]. The ExA sought additional clarification from the Councils and the Applicant provided a detailed response to how the different elements of the accommodation strategy and the supporting housing funds would be delivered [ER 5.9.126]. At the end of the Examination, a series of measures were added to the Order and DoO which provide a clear timetable of delivery in line with the Implementation Plan and the Construction Method Statement. Both Councils were content with this final position [ER 5.9.128]. The accommodation campus adjacent to the MDS is considered at paragraph 4.134 in the Alternatives section. The ExA considers [ER 5.9.132] that having explored the methodology of assessment and the



suitability of the Accommodation Strategy in conjunction with the accommodation provided by the Applicant, this should result in appropriate mitigation for this part of the project [ER 5.9.132].

- 4.298 Recognising the potential problems that fly parking could cause, the Applicant prepared a comprehensive range of measures which has been adapted through the Examination [ER 5.9.138]. These include fly parking patrol teams, the Sizewell community helpline, Worker Code of Conduct and monitoring data being reported to the TRG. The ExA concludes that these elements delivered through the DoO and Order would provide an adequate way of monitoring and managing the potential risks of fly parking from the development and these concerns should not weigh against the making of the Order [ER 5.9.139]. For the reasons given the Secretary of State agrees with the ExA's conclusions on these matters.
- 4.299 In respect of the effects on community cohesion, the ExA notes [ER 5.9.168] that Suffolk Constabulary maintained objections to the project at ISH12 and were still opposed to how the project had set out the potential for community safety and cohesion pressures to be managed. Further discussions were held and the ExA notes that the raft of mitigation offered, including changes to the CTMP to manage Abnormal Indivisible Loads ("AILs") and the Public Services resilience fund secured in Schedule 5 of the DoO, has been agreed by the Councils and the Suffolk Constabulary as confirmed in their respective SoCGs [ER 5.9.173]. The ExA are satisfied these measures provide for appropriate safeguards to avoid significant adverse effects in respect of community safety and cohesion. The ExA concludes there are no issues which would weigh for or against making the Order [ER 5.9.173].
- 4.300 The measures proposed for recreational and cultural effects were included at Schedule 14 of the DoO in the form of a ringfenced sum from the Sizewell C Community Fund which will be applied solely for projects within the Leiston ward. Other specific schemes include cycling and walking improvements [ER 5.9.184]. The ExA confirms it is satisfied that the combination of mitigation offered allows the opportunity to provide recreational and broader cultural opportunities in the local area which will support both the workforce and the resident population. The ExA considers that these factors do not weigh for or against the making of the Order [ER 5.9.185].
- 4.301 In respect of the effects on passenger rail services and rail safety the ExA considers the Applicant has demonstrated a positive working relationship with Network Rail ("NR") to deliver the rail improvements necessary to facilitate the project within the time frame, but some uncertainty remains [ER 5.9.200]. Any upgrades to the lines by way of improvements to the Saxmundham junction, level crossings and welding of the line may have some effects on services but would be temporary and should deliver benefits which, in the long term, would be of greater public benefit. The ExA ascribes little weight relating to this issue for the making of the Order [ER 5.9.202]. The ExA notes that a safety case is being presented by NR and considers there is insufficient evidence to go against the conclusions NR has reached [ER 5.9.203]. The ExA considers that a mechanism should be in place to ensure that upgrades at Darsham are delivered in the event that NR are unsuccessful in their bids for funds. The

Secretary of State requested further clarity that if funding is not secured by NR, the Applicant agrees to meet the full costs of the necessary improvements. The Secretary of State has considered their response to his question, and his conclusion is set out in the Traffic and Transport section.

- 4.302 The ExA notes the effects on communities along the rail line from night-time freight services including the confidence in the delivery of the Rail Noise Mitigation Plan (“RNMP”) [ER 5.9.204 et seq.]. The ExA notes [ER 5.9.216 et seq.] that within the SoCG with NR details for the final implementation of the level crossing upgrades for the East Suffolk Line are being finalised to allow delivery in line with the programme agreed with the Applicant. The provision of the RNMP and the addition of requirement 39 in the Order gives a significant degree of control to ESC as the required rail transport cannot commence in advance of it being agreed with ESC. With improvements to the rail line at Saxmundham junction and along the branch line itself the ExA are content the Applicant has appropriately addressed the concerns identified by IPs such that significant adverse effects from the operation of the rail line would be managed and mitigated to an appropriate level [ER 5.9.217]. The ExA considers there are no matters relating to Passenger Rail Services and Rail safety matters which weigh for or against the making of the Order other than the Darsham issue referred to in the Transport section and referenced above [ER 5.9.218]. The Secretary of State agrees with the ExA’s conclusion on this matter.
- 4.303 The effects on the community from workforce and construction traffic is covered in [ER 5.9.219 et seq.]. In the discussion on transport the ExA concluded that in traffic terms the combination of park and ride facilities, freight management facility and the supporting management plans creates an appropriate solution in transport terms, apart from the early years impacts along the B1122 [ER 5.9.238]. The ExA conclude that the highway network can accommodate the traffic from the Proposed Development, in line with the physical mitigation and action plans, the communities on these highway networks will be safeguarded from any unreasonable or significant adverse effects which may arise from this traffic [ER 5.9.239]. The ExA recognises that there will be effects from the traffic on these communities but not to a degree that it weighs against the development [ER 5.9.239]. The early years impacts on the B1122 are not viewed in the same way, the Applicant describes it as a rural B road that is not safe to accommodate two way HGV wider than 3m in opposite directions, along a road with no continuous footways or cycleways and where there are footways in Theberton that are 1.2m wide with speed limit variations, road narrowing, inconsistent horizontal and vertical alignment and locations where junction and forward visibility is poor even at reduced speeds [ER 5.9.240]. Despite the mitigation being offered by the Applicant the ExA conclude that the adverse effects on these communities from the significant levels of HGV and worker traffic during these early years should weigh against the scheme in the planning balance [ER 5.9.242].
- 4.304 The Secretary of State agrees with the ExA’s position on this matter. He notes that the ExA has considered the Applicant’s position if there is not a practical alternative and he has considered the ExA’s view that the Applicant has not presented evidence to provide an explanation, in community impact terms, why this level of activity along the B1122 would be acceptable for around three years

or any justification beyond the urgency of need [ER 5.9.244]. He considers this further in the Traffic and Transport section of his decision letter.

- 4.305 The adverse effect of the traffic along the B1122 in the early years when weighed in the planning balance is an element to which the ExA ascribe moderate weight against making the Order due to the adverse effect on local communities [ER 5.9.246 et seq.]. In Transport terms, apart from outstanding matters identified in that section, the ExA is content adverse effects have been addressed through the combination of the NPR and SPR, traffic management and controls delivered through the combination of plans secured through the Order and DoO which are supported by appropriate monitoring measures [ER 5.9.247]. The ExA does not consider that the traffic effects would adversely affect communities to such an extent that it would weigh against the scheme in the overall planning balance [ER 5.9.248]. The Secretary of State agrees with the ExA on this matter. He agrees with the ExA's conclusion that, save the early years impacts on the B1122, the traffic effects have been addressed through the controls in the Order and DoO and would not weigh against the scheme in the overall planning balance. The early years impacts are considered further in the Traffic and Transport section of his decision letter.
- 4.306 In terms of effects on public services and their capacity [ER 5.9.249 et seq.] the ExA is content this issue has been thoroughly considered and the degree of effect properly represented through modelling that has been undertaken [ER 5.9.259]. The ExA also refers to the agreement of the main parties confirmed through the final SoCG with SCC, Suffolk Constabulary, and the East of England Ambulance NHS Trust. The ExA ascribes little weight to this matter against making the Order [ER 5.9.260]. The Secretary of State agrees with the ExA on this matter.
- 4.307 At [ER 5.9.261 et seq.] the ExA sets out its conclusions of the effects and the Applicant's recognition in the ES of the sensitivity of the location and the range of measures required in order to mitigate the impacts that will arise in order to offset the worst of the adverse effects, including a broad range of measures identified in response to concerns raised by the community [ER 5.9.267].
- 4.308 The Applicant has set up a community fund to address non- tangible effects, which are not easily identified, but give the community an opportunity to work with the Applicant to manage impacts as they arise [ER 5.9.268]. The Secretary of State notes that in the event that effects that are difficult to identify arise, a fund exists to mitigate these impacts. The ExA consider this is a proportionate response to the community impacts identified in these circumstances [ER 5.9.271]. When read as a package of measures alongside the other mitigation provided through the strategy of plans and controls through the requirements and the DoO, the ExA is of the view that the whole package together would achieve a suitable degree of mitigation [ER 5.9.271]. As a result, agreement on the scale and terms of that mitigation has been reached with ESC and SCC (and with all funding recipients) [ER 5.9.272].
- 4.309 The ExA notes that at the end of the Examination a SoCG had been agreed with a number of public organisations and the ExA gives this substantial weight in drawing on its conclusions on the community matters [ER 5.9.274]. It also

recognises effects will not be felt equally across the community, recognising in certain places like Theberton and Middleton Moor the adverse effects in the early years will be substantially adverse while Leiston will be affected by large population increases and workforce activity throughout the construction programme [ER 5.9.275]. Communities that are more distant or offset from the traffic or rail routes are likely to see a very different range of effects, many of which will be beneficial [ER 5.9.276]. On balance therefore the ExA is of the view that the adverse effects to some of the communities that arise from the construction and operation of the Proposed Development can be ascribed little weight to matters against the making the Order [ER 5.9.277]. The Secretary of State agrees with the ExA's conclusions on this matter.

### Cumulative and Transboundary Impacts

- 4.310 The ExA notes legislation and policy relevant to the consideration of cumulative impacts, including NPS EN-1 and NPS EN-6 [ER 5.10.1 et seq.].
- 4.311 Volume 10 of the ES presents the different cumulative effects assessments of the Proposed Development. Appendices 1A-1B have been superseded by Vol. 3, Appendix 2D of the Fourth ES Addendum, and Appendix 2A has been superseded by Volume 10 Project-Wide, Cumulative and Transboundary Effects – Chapter 2 Inter-relationship Effects Appendices 2A to 2B.
- 4.312 There was no change to the cumulative assessments for terrestrial environment topics and the transboundary effects assessments presented in Volume 10 of the ES as a result of Change 19, however an update of the cumulative effects assessments for the marine environment topics was included [ER 5.10.19]. This update concluded that with appropriate mitigation in place, whilst the provision of the desalination plant will introduce new effects within the marine environments there are no new or materially different significant effects as a result.

#### *Project-wide impacts*

- 4.313 The ES assessed various effects to be greater at the project-wide scale, compared with the effects from the individual project components. These are considered in the relevant sections of the ExA Report [ER 5.10.59], and the Secretary of State has adopted the same approach in this letter.
- 4.314 During the Examination, consideration was given to the project-wide impacts of the Proposed Development. These included Leiston Abbey and Pro Corda Music School, and the ExA concluded that the project-wide impacts relating to these have been satisfactorily resolved [ER 5.10.46 et seq.]. Consideration was also given to project wide ecology impacts [ER 5.10.52 et seq.], and the ExA concluded [ER 5.10.55] that the groundwater and surface water effects on the Sizewell Marshes SSSI has been satisfactorily resolved, with Natural England agreeing that the proposed mitigation approach would be satisfactory.
- 4.315 In relation to the effects on views during construction, the ExA found [ER 5.10.59] no reason to disagree with the Applicant that when the MDS and associated development sites are combined, they will not result in greater project-wide visual effects. The ExA also concluded that the significant effects

on St Mary's Abbey would be temporary and the harm less than substantial. The Secretary of State's conclusions in respect of historic environment impacts can be found in paragraphs 4.420 to 4.424 of the Historic Environment section of this letter.

- 4.316 With regard to the project-wide issues of temporary and permanent loss of BMV land, and temporary and permanent loss of agricultural land production, the ExA concluded that adverse effects would remain, but that the proposed mitigation measures have been designed to reduce the effects on soil resources and agricultural holdings as far as reasonably practicable.
- 4.317 The ExA concludes [ER 5.10.57 et seq.] that the ES has appropriately considered the project-wide implications of cumulative effects, and that in relation to project-wide issues, all applicable conventions, international and national legislation, and policies have been complied with. The Secretary of State agrees with the ExA on this matter.

*Interrelationship effects*

- 4.318 A number of IPs raised concerns regarding the potential for combined effects arising from noise and vibration, air quality and landscape, and visual impact including the location of the NPR, the SPR, the TVB, the SLR, the FMF, the Yoxford Roundabout and the GRR [ER 5.10.62 et seq.].
- 4.319 The ExA concludes that, with the exception of outstanding concern remaining over the inter-relationship effects on the amenity of the communities along the B1122 in the Early Years, and the adverse effects on fear and intimidation resulting from increased traffic, the additional significant adverse inter-relationship effects likely to be experienced by the identified receptors would be satisfactorily mitigated [ER 5.10.74 et seq.]. The ExA is satisfied that the ES has given appropriate consideration to the interrelationship effects resulting from the Proposed Development, and concludes [ER 5.10.76] that all applicable conventions, international and national legislation, and policies have been complied with. The Secretary of State agrees with the ExA on this matter.
- 4.320 Noting the ExA's outstanding concerns regarding the effects on amenity of the communities along the B1122 in the Early Years and the adverse effects on fear and intimidation resulting from increased traffic, on 18 March 2022 the Secretary of State requested further information from the Applicant on these matters. The Secretary of State asked the Applicant to provide details on the possibility for control mechanisms to secure the delivery of the SLR and the TVB in advance of the commencement of Phase 1 works on the MDS. The Applicant's response states at paragraph 3.1.52 that the significance of imposing an alternative delivery sequence at this stage, which would add years to the construction timetable and significantly disrupt the build programme, should not be underestimated and is not advised.
- 4.321 With regard to the effects on the amenity of the communities along the B1122, the Applicant was asked to advise whether quiet road surfacing had been considered for the relevant section of the road and to set out its position regarding quiet road surfacing at this location. The Applicant's response advised that a quiet road surface is no more likely to reduce vibration than a

standard hot rolled asphalt surface if both are maintained in good condition and free from discontinuities, and advised that vibration will be minimised by keeping the road surface in a good condition and free from discontinuities.

- 4.322 In light of the Applicant's position on the possibility of delivering the SLR ahead of Phase 1 works on the MDS, on 25 April 2022 the Secretary of State asked the Applicant to provide details as to any further mitigation that could be provided in relation to noise and vibration impacts on the relevant part of the B1122 before the SLR is in place. The Applicant responded that, following further engagement with SCC and ESC, further steps are now proposed, including residential surveys and highway condition surveys. Paragraph 2.1.6 of the Applicant's response states that, with regard to residential surveys, where defects are identified in the second survey that were not apparent in the first survey, the cause of the defects will be investigated and should this demonstrate the defects have arisen as a result of the vibration effects of traffic since the first survey, an agreement will be entered into with the owner to fund the necessary remedial works. Paragraph 2.1.10 notes that highway condition surveys additional to the Highway Structural Maintenance Contribution will be carried out prior to commencement, including a further visual condition survey along the B1122. This paragraph further notes that, should the visual condition survey identify that the existing surface condition falls below the specification agreed between the Applicant and SCC, then the Applicant will identify the resurfacing works required and use the process in Article 13 of the Order to obtain the necessary consent to carry out these works. The Applicant submitted its Second Deed of Variation dated 6 May 2022 that ensures these commitments are secured in the DoO. The Secretary of State is satisfied that quiet road surfacing is not required at this location given that the road surface will be kept in good condition as secured in the DoO via the Deed of Variation and the residential and highway condition surveys that are to be undertaken.
- 4.323 The Secretary of State agrees with the Applicant's position regarding the delivery of the MDS and the TVB and notes the further mitigation steps proposed by the Applicant. The Secretary of State considers that the matter of quiet road surfacing raised by the ExA has been satisfactorily resolved.

*Cumulative effects with other plans, projects, and programmes*

- 4.324 The ExA considered the cumulative effects with other plans, projects, and programmes, with consideration given to general assessment issues [ER 5.10.77 et seq], transport [ER 5.10.87 et seq.], coastal processes [ER 5.10.112 et seq.], landscape and visual impact [ER 5.10.119 et seq.], offshore works [ER 5.10.122 et seq.], local housing stock [ER 5.10.126 et seq.], electricity connection [ER 5.10.134 et seq.], labour market, skills and employment strategy [ER 5.10.140 et seq.], ecology terrestrial [ER 5.10.148 et seq.], amenity and recreation [ER 5.10.154 et seq.], and health, well-being and effects [ER 5.10.158 et seq.].
- 4.325 Overall, the ExA considers [ER 5.10.166] the Applicant has appropriately reviewed the relevant schemes and, in accordance with NPS EN-1, has adequately assessed how the effects of the Proposed Development would combine and interact with the effects of other development. The ExA also

considers [ER 5.10.167] that the cumulative transport effects with other plans, projects and programmes identified would be satisfactorily mitigated. The ExA concludes [ER 5.10.169] that the mitigation proposed and that would be secured in the DoO is reasonable and proportionate and no additional mitigation is required.

- 4.326 The Secretary of State agrees with the ExA's overall conclusion on this matter. However, the matters of general assessment issues and coastal processes required further consideration by the Secretary of State, which is detailed below.

*Cumulative effects with other plans, projects, and programmes – general assessment issues*

- 4.327 With regard to general assessment issues, the ExA notes [ER 5.10.77 et seq.] that the Anglian Energy Planning Alliance ("AEPA") submitted that the Applicant has only fully considered the East Anglia One North ("EA1N"), East Anglia 2 ("EA2") and the East Anglia 3 projects but that as well as EA1N and EA2, six other projects under development by National Grid or others have been offered, or may be offered, connection to the substation at Friston, and that if connected they would be co-located with the EA1N and EA2 developments. Referring to the Norfolk Vanguard judgement (*R (Pearce) v Secretary of State for Business, Energy and Industrial Strategy* [2021] EWHC 326), AEPA submitted that the Applicant is obliged to include in its cumulative effects assessment all other infrastructure projects that will be or are likely to be developed within this wide area, or could have effects upon it. AEPA submitted that new information on the Nautilus and Eurolink Interconnectors, made public by National Grid after the close of the Examination, should have been provided to the ExA by the Applicant and National Grid to enable a comprehensive assessment of the potential cumulative effects.
- 4.328 The ExA notes [ER 5.10.80] the Applicant's confirmation that Appendix 13A 'Update to cumulative effects assessment' considers any changes made to nearby energy NSIPs scoped into the cumulative effects assessment in the ES since the submission of the Application. Paragraph 1.3.12 of Appendix 13A include the Scottish Power Renewables projects Eurolink Interconnector, and the Nautilus Interconnector. The ExA notes [ER 5.10.83] that a further update to Appendix 13A was provided at Deadline 7, but this simply recorded that no new information was available since the May 2021 update. The ExA does not consider [ER 5.10.86] that the particular facts and circumstances of this case are directly comparable to the Norfolk Vanguard case, and is satisfied that the cumulative effects of the Proposed Development in association with the relevant NSIPs are unlikely to be significant, noting that the projects do not have the same degree of association and common features as was the case for the Norfolk projects.
- 4.329 The Secretary of State notes that in Appendix E, and in paragraph 5.10.166 of the ExA's Report, the ExA advises that the Secretary of State might wish to consider seeking additional information in relation to the Nautilus and/or Eurolink interconnectors, if he has outstanding concerns and believes that any new important and relevant information may now be available, in order to

consider the potential cumulative effects of the Nautilus Interconnector or Eurolink Interconnector with the Proposed Development. The Secretary of State is content with the position at the end of the Examination, and no new information has been brought to his attention that would alter his view on that position. The Secretary of State therefore agrees with the ExA's conclusion on this matter.

*Cumulative effects with other plans, projects, and programmes – Coastal processes*

- 4.330 With regard to coastal processes, the Secretary of State notes that although the ExA found [ER 5.10.117] no reason to question the ES approach to the assessment of cumulative effects associated with coastal processes, the EA was unable to agree with the full assessment of cumulative impacts due to residual concerns around the modelling of coastal defences, in relation to outstanding modelling.
- 4.331 In the Secretary of State's letter of 18 March 2022, the EA was asked to confirm if the Preliminary Design and Maintenance Requirements for the Sizewell C SCDF provided by the Applicant at Deadline 10 satisfied its remaining concerns in relation to modelling and further analysis for the SCDF, and consequently the HCDF, including any implications for resilience and cumulative impact assessment. The EA's response noted that the Applicant had continued to work with the EA (and others) since the Examination ended to resolve this matter, and as a result prepared an additional report (BEEMS Technical Report TR553 "Modelling of Soft Coastal Defence Feature under Design Basis Conditions" v2) in an endeavour to address the outstanding issues. The EA reviewed the report and confirmed that it resolves the concerns that remained at the close of the Examination. The Secretary of State is therefore satisfied that this matter has been adequately resolved and is content that there will be no unacceptable impacts in respect of cumulative effects associated with coastal processes.

*The cumulative impact on the Suffolk Coast and Heaths AONB*

- 4.332 Many IPs raised concerns in relation to the potential cumulative impact upon the AONB taken as a whole from a variety of sources [ER 5.10.172]. The ExA notes that the ESC and SCC Joint Local Impact Report provides a summary of identified impacts upon the AONB and outlines the mitigation sought and how it would be secured [ER 5.10.174]. The Councils consider that the list of effects on AONB special qualities suggest a risk of significant impacts on the AONB and the purpose of the designation, a risk that had been identified in the site nomination material within EN-6 Vol II. The ExA notes that the mitigation required is discussed in more detail in the relevant topic sections, particularly in the landscape and ecology sections of the LIR [ER 5.10.175].
- 4.333 Section 4.7 of Volume 10, Chapter 4 of the ES considers the potential cumulative landscape and visual effects of the Proposed Development with other proposed projects, including EA1N and EA2, and in particular the onshore elements of these projects. It is noted that the draft DoO includes a 'Natural Environment Improvement Fund' which would fund measures to mitigate the



residual landscape and visual effects of the Proposed Development [ER 5.10.184].

- 4.334 The ExA is content that schemes of potential relevance to the AONB have been considered, and that it was reasonable not to include other potential cumulative schemes identified by the Suffolk Coast and Heaths AONB Partnership given their stage of development and the lack of available information on those projects at the time [ER 5.10.188]. The ExA also considered the outstanding points raised by SCC in its Final Position Statement in the relevant sections of the ExA report, and concludes that less intrusive technical solutions for the power export connection would not be feasible, that the provision of an outage car park for the Proposed Development in the AONB is necessary and reasonable, that the SLR should be retained permanently as a legacy benefit, and that the alternative SSSI crossing favoured by SCC is not necessary and reasonable [ER 5.10.192].
- 4.335 The ExA notes [ER 5.10.194] the concerns of the AONB Partnership, including those regarding the potential for negative impacts on the natural beauty of the nationally designated landscape. The ExA is content [ER 5.10.197] that the mitigation proposed to mitigate the residual landscape and visual effects is reasonable and proportionate and no further practicable mitigation is available. However, the ExA attributes [ER 5.10.198] substantial negative weight to the residual construction cumulative effects and moderate negative weight to the residual operational cumulative effects upon the AONB against the Order being made. The ExA is satisfied [ER 5.10.199] that the ES has given appropriate consideration to the cumulative impact on the AONB, and that all applicable conventions, legislation, and policy have been complied with.
- 4.336 However, the ExA notes that there is to date little information available on the timing or the form of the infrastructure related to the supply of water to the site, and that the impacts of that development including on the AONB will fall to be assessed at that time [ER 5.10.195]. The ExA states that it is unable to provide a reasoned conclusion in respect of the cumulative environmental effects of the water supply solution [ER 5.10.209] The Secretary of State acknowledges that an assessment of the cumulative environmental effects of a mains connection via NWL cannot be undertaken in detail at this stage, given that NWL's WRMP24 process is still ongoing meaning that the relevant information is not available at present. However, the Secretary of State has had regard to the Applicant's Water Supply Strategy version 2.0 dated September 2021 and its conclusion that the pipeline proposed at that time to the North/Central WRZ is, based on the information then available, unlikely to give rise to new or different significant effects than those reported in volume 10, chapter 4 of the ES. The Secretary of State notes that cumulative impacts must be assessed as part of NWL's duties under the WIA Act and is satisfied that the cumulative impacts of any water supply solution identified under the WRMP24 process will be properly and fully assessed. The Secretary of State notes that the decision on the WRMP24 is to be taken by a separate decision-maker. The Secretary of State further notes the fallback option of a permanent desalination plant. The Secretary of State therefore considers that a reasoned conclusion in respect of the cumulative environmental effects of the water supply solution will be

reached as part of the WRMP24 process and is satisfied to defer detailed assessment to that process.

*Overall conclusions on cumulative impacts*

- 4.337 Overall, the ExA concludes [ER 5.10.210], with the exception of the outstanding matter of the water supply strategy, that in relation to project-wide effects, interrelationship effects, and cumulative impacts with other plans and projects, that all applicable conventions, legislation, and policy have been complied with, and there are no additional matters over and above those identified that would weigh for or against the Order being made. However, the ExA concludes [ER 5.10.211], in relation to the overall effect on the AONB, that there would be adverse impact on the purpose of the designation, and harm to the identified special qualities of the AONB after taking mitigation into account. The ExA attributes substantial weight to the residual construction cumulative effects and moderate weight to the residual operational cumulative effects on the AONB against the Order being made. The Secretary of State agrees with the ExA's conclusion on these matters.
- 4.338 With regards to the matter of the permanent water supply solution for the Proposed Development, as set out in the paragraph above and in the section below on Flood Risk, Groundwater and Surface Water, the Secretary of State is satisfied that a detailed cumulative assessment of the permanent water supply solution can be deferred to the WRMP24 process given the absence of information on this matter at this time.

*Transboundary Issues*

- 4.339 The ExA is satisfied [ER 5.10.171] that the ES has appropriately considered transboundary implications, and that all applicable conventions, international and national legislation, and policy have been complied with. Transboundary matters relating to radiological issues, and the HRA assessment, are covered in Section 5.20 and Section 6 of the ExA Report respectively, and the Secretary of State's consideration of these transboundary matters are considered further in the relevant sections of this letter.
- 4.340 The Secretary of State's letter of 18 March 2022 requested that the Applicant and the ONR provide a full final response to the questions set out within chapter 8 of the Austrian Government's Espoo Convention Response of 17 September 2020. The Applicant and the ONR's responses were submitted to the Austrian Government for consideration on 25 April 2022. The Austrian Government provided its Final Expert Statement ("FES") on 23 May 2022 providing its recommendations. The FES provided various recommendations for the Applicant to consider. The Applicant and the ONR's responses were also published on the Planning Inspectorate's website on 25 April 2022. Some IPs, including TASC and J Chanay, criticised the responses provided by the Applicant and the ONR. The Secretary of State subsequently invited the

Applicant and the ONR to provide any final comments on the FES on 31 May 2022<sup>10</sup>; they responded on 16 June 2022<sup>11</sup>.

- 4.341 On 15 June Mr Hallett, the Vice Chairman of Pettistree Parish Council provided comments in relation to the FES. On 23 June 2022, TASC submitted further comments criticising the ONR's response of 16 June 2022. TASC's comments referred to a report by Mr John Busby, which was included as an annex; this report sets out the view that the EPR Emergency Core Cooling System cannot work. The Secretary of State has considered these comments, which relate to nuclear site safety and fuel storage and are therefore matters properly considered by ONR as the nuclear regulator. ONR have considered the FES and have given no indication that they depart from their view that they have identified nothing that might prevent the grant of a site licence or a permit for the commencement of nuclear construction. A brief summary of the recommendations from the FES and the responses from the ONR and the Applicant is set out below.
- 4.342 The FES recommended the Applicant should demonstrate safe management of nuclear waste and spent fuel from the Proposed Development, provide detailed information on interim storage and final disposal, and provide alternative nuclear waste management solutions in case these facilities will not be operable in time. In section 2.3 of its response the Applicant responded that the Intermediate Level Waste Store will be built and in place prior to the start of operation. The ONR confirmed it is content with the Applicant's response.
- 4.343 The FES recommended the Applicant should closely follow the resolution of the problem that occurred at the operating EPR at Taishan Nuclear Power Plant to avoid the same or similar problem at the EPRs in the Proposed Development. In section 2.4.1, the Applicant's response stated that it will act upon any information relating to the tightness of fuel rods being investigated at Taishan. The ONR confirmed it is in contact with the Chinese, French and Finnish regulators and further engagement will be arranged once there is further information.
- 4.344 The FES recommended the Applicant should reassess external hazards at the Proposed Development site before the design process starts, with the reassessment based on the latest state-of-the-art methods and taking into account current data. In section 2.5 of its response, the Applicant confirmed it does not consider it necessary to repeat the external hazards assessment given that a full and robust assessment was undertaken as part of the NSL application. The ONR confirmed it was satisfied with the Applicant's response.
- 4.345 The FES suggested the Applicant should use a conservative approach addressing the loss of major sections of the marshlands whether from depletion

---

<sup>10</sup> The Secretary of State's letter of 31 May 2022 inviting the Applicant and the ONR to comment on the Government of Austria's FES: <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010012/EN010012-010979-Sizewell%20C%20-%20Letter%20to%20Applicant%20and%20ONR.pdf>

<sup>11</sup> The responses provided in relation to the Government of Austria's FES: <https://infrastructure.planninginspectorate.gov.uk/projects/eastern/the-sizewell-c-project/?ipcsection=docs&stage=6&filter1=Secretary+of+State+Consultation&filter2=Response+to+SoS+request+for+information+31+May+2022>

of the Sizewell-Dunwich banks or climate change sea level rise of anything above 1.5 degrees. Section 2.6 of the Applicant's response notes that coastal flooding studies for the Proposed Development take account of conservative assumptions around the evolution for the coastline, geomorphology and climate change in accordance with the latest government guidance. The ONR did not wish to add anything beyond the Applicant's response.

- 4.346 The FES stated that to achieve the safety goal of new nuclear power plants in terms of the requirement that accidents leading to early or large releases have to be practically eliminated, hazard events with frequency below  $\ll 10^{-4}$  must also be considered if their impacts reach beyond the design basis, with a comprehensive Probabilistic Safety Analysis necessary. Section 2.7 of the Applicant's response notes that the ONR Safety Assessment Principles define an expectation to demonstrate there are no 'cliff-edge' effects, so the Applicant will perform 'Beyond Design Basis' assessment of the design to eliminate any 'cliff-edge' effects beyond the design basis. The ONR confirmed it was satisfied with the Applicant's statements.
- 4.347 The FES recommended the implementation of appropriate margins to external hazards in the design of the Proposed Development based on current scientific studies and data. Section 2.8 of the Applicant's response confirmed the civil design will meet the expectations of modern codes and standards and will demonstrate the risk is as low as reasonably possible. The ONR considers this to be an adequate response.
- 4.348 The FES recommended applying the concept of practical elimination consistently in the Proposed Development's safety requirements. Section 2.9 of the Applicant's response notes the Applicant's analyses will be performed in accordance with the Applicant's Nuclear Safety Design Assessment Principles. The ONR considers the Applicant's response is adequate.
- 4.349 The FES recommended considering severe accident scenarios with possible late containment failure in the notion of practical elimination and plan a filtered containment venting system. The ONR noted that its assessments of the HPC EPR™ safety case are carried out in accordance with ONR Safety Assessment Principles and Technical Assessment Guides. The design has continued to evolve, and the safety case is being developed to take account of this evolution. The ONR advises that its assessments thus far have concluded the design is acceptable against its deterministic and probabilistic criteria for design basis and severe accidents, with risks reduced as low as reasonably practicable. The design of the nuclear island for the Proposed Development is identical to HPC, so the conclusion regarding severe accidents is expected to be the same.
- 4.350 The FES recommended providing information in a transparent manner about the upcoming demonstration proving the level of risk is as low as reasonably practicable. Section 2.11 of the Applicant's response confirms that the demonstration requested will be provided as part of the Pre-Construction Survey Safety Report due to be submitted to the ONR in 2024. The ONR is satisfied the Applicant's response is factually correct and has no further observations.

- 4.351 The FES recommended including a conservative worst-case release scenario which should have been part of the EIA. Paragraph 2.12.1 of the Applicant's response noted that the Secretary of State's Scoping Opinion response to the proposed approach to the assessment of major accidents and disasters had had regard to advice from the ONR. The ONR had no further observations.
- 4.352 The FES recommended the Applicant should design the Proposed Development so vital safety functions can be fulfilled despite thermal and mechanical impacts corresponding to the crash of the largest passenger aircrafts and fast military jets. Section 2.13 of the Applicant's response reiterates that five distinct aircraft families are considered in the HPC design basis and it considers it has demonstrated that vital plant safety can be maintained taking account of thermal and mechanical challenges from aircraft impact. The ONR confirmed it was satisfied with the Applicant's response.
- 4.353 With regard to trans-boundary impacts the FES recommended the Applicant should calculate the consequences of a severe accident with a large release since the effects can be wide-spread and long-lasting. Section 2.14 of the Applicant's response confirms the Proposed Development was assessed under Article 37 of the EURATOM Treaty, the transboundary impacts were modelled for a number of reference accidents, including a DEC-B Severe Accident, with the impacts assessed for a number of member states, with the bounding dose to a member state from an unplanned DEC-B release assessed as broadly equivalent to a dental x-ray. The ONR confirmed it is content that the Applicant's response regarding the UK submission are accurate and these represent an appropriate response; the ONR did not make any additional comments.
- 4.354 The Secretary of State has considered the responses provided by the Applicant and the ONR and is satisfied that the risks outlined in the FES have been adequately considered. The safety issues raised in the FES are dealt with by other regulatory regimes, including the NSL (see section 2.7 of EN-6). The Secretary of State is satisfied that this robust regulatory regime will ensure that the site is safely operated and transboundary impacts can be avoided.

#### Flood Risk, Groundwater, Surface Water

- 4.355 The ExA notes the relevant policy for flood risk, water quality and resources, effects on the water environment, and climate change set out in NPS EN-1, NPS EN-6, and the National Planning Policy Framework [ER 5.11.3 et seq.].
- 4.356 The Applicant submitted Flood Risk Assessments ("FRAs") for the MDS, NPR, SPR, TVB, SLR, Yoxford Roundabout and other highway improvements, FMF, and for Rail [ER 5.11.13].

#### *Flood Risk*

- 4.357 Coastal flooding, coastal defences breach, fluvial, surface water, groundwater, reservoir and sewer flood risks were considered in the MDS FRA [ER 5.11.16], and the MDS FRA considers the Sequential and Exception Tests and concludes that the Exception Test requirements are met [ER 5.11.18]. The

HCDF would be constructed between the reinstated sand dunes with a shingle beach, known as the SCDF, and the proposed platform [ER 5.11.19].

- 4.358 On 23 May 2022 the Planning Inspectorate informed the Secretary of State of typographical errors in the references to paragraphs in the NPPF at paragraph 5.11.11 of the ExA Report. This paragraph should refer to paragraphs 152 – 169 of the NPPF and that the specific reference to paragraph 155 should refer to paragraph 159 instead. The Planning Inspectorate confirmed that the ExA's assessment considers the 2021 NPPF and that the consideration of the flood risk for the NPR in paragraph 5.11.43 is based on the July 2021 NPPF. The Planning Inspectorate confirmed that the ExA is satisfied that the assessments undertaken by the Applicant of flood risk at the NPR, although undertaken in advance of the July 2021 NPPF, are in compliance with that version of the NPPF.
- 4.359 In terms of surface water flooding the FRA concludes that there is a low risk of flooding for all phases of development [ER 5.11.24], and whilst the groundwater levels would fluctuate due to the dewatering activities in the construction phase, the overall groundwater flood risk would remain as being of 'limited' potential [ER 5.11.25]. The FRA states that through appropriate design, installation and management of the foul water system, the risk of sewer flooding would remain low [ER 5.11.27]. During the early construction phase, the FRA identifies that there is a risk of coastal flooding to both the main platform and SSSI crossing areas for a short period while the new HCDF is still under construction, and that a flood risk emergency plan would be developed and used to manage this risk [ER 5.11.28].
- 4.360 Mr Nick Scarr expressed concerns about the coastal geomorphology assessments undertaken by the Applicant [ER 5.11.180, 5.11.186, 5.11.193]. The Applicant responded that the Coastal Processes Monitoring and Mitigation Plan ("CPMMP") would be an adaptive plan that would remain live through the operational and decommissioning period [ER 5.11.187]. The ExA considers [ER 5.11.187] this allows for the recognition of possible expansion or contraction of effects due to the localised impacts over time. The ExA notes the EA advised that it agreed 'with the applicant that the modelling is suitably conservative' and that it is 'satisfied that [its] concerns have been addressed' following a review of the updated versions of the BEEMS Technical Reports TR545 and TR544 [ER 5.11.192].
- 4.361 Mr Bill Parker expressed concerns about the possibility of a tsunami and the ability of the coastal defence design to deal with such an extreme event [ER 5.11.183]. The Applicant referred to paragraph 2.7.3 of NPS EN-6, which states that the ExA 'should not duplicate the consideration of matters that are within the remit of the Nuclear Regulators'. The ExA has not been presented with any evidence that it should disagree with the approach set out in NPS EN-6, and as this forms part of the Nuclear Site Licence application work, is satisfied that this is not a matter that should be part of the planning assessment for the Proposed Development [ER 5.11.185].
- 4.362 The EA confirmed in its final signed SoCG that there are no outstanding areas of disagreement with the Applicant with respect to the MDS FRA [ER 5.11.195].

The ExA concludes that with regard to flood risk at the MDS, the Applicant has demonstrated it has satisfied the requirements of both NPS EN-1 and EN-6 [ER 5.11.197].

- 4.363 The EA confirmed in its signed SoCG that there were no outstanding areas of disagreement with the Applicant about the SLR FRA [ER 5.11.201]. The ExA concludes that the Applicant's SLR FRA and Addendum fully address the issues relating to flood risk along the SLR [ER 5.11.203]. The EA confirmed in its SoCG that it was satisfied with the approach to the TVB FRA following the Applicant's submission of evidence of the relevant landowner's consent [ER 5.11.205]. The ExA is satisfied that, taking this into account, the Applicant is not required to provide further mitigation measures and has addressed the flood risk associated with the construction and operation of the TVB [ER 5.11.206]. Darsham Parish Council raised concerns about the NPR FRA, but the ExA considers that it adequately addresses flood risk issues at this site [ER 5.11.207].
- 4.364 In its signed SoCG, the EA confirmed there were no areas of disagreement with the Applicant on any issues relating to the flood risk assessment [ER 5.11.209]. The ExA is satisfied that the Applicant has fully addressed the flood risk associated with the construction and operation of the Proposed Development [ER 5.11.210], and that the Applicant's assessment of flood risk complies with NPS EN-1's policy aim of making the Proposed Development safe without increasing flood risk elsewhere [ER 5.11.211].
- 4.365 The Secretary of State notes the post-Examination representations submitted by IPs related to flood risk, including Mr Bill Parker who raised concerns regarding the protection from flooding during operation, decommissioning and the residual time spent fuel is stored on site. The Secretary of State notes the EA's letter to Mr Bill Parker of 7 June 2022 which confirmed that the FRA extended to 2190, and that for the Reasonably Foreseeable actual risk up to 2190, there would be no inundation of the main platform or SSSI crossing from overtopping of the HCDF or the remaining lower northern and southern sand dunes/shingle defences in all events up to the 0.1% annual probability flood events in 2019. The EA's letter also included a subsection titled 'ONR' response, confirming that during the operation of a nuclear licenced site, it is a regulatory expectation for the licensee to periodically review the validity of the safety case for all facilities on site against external hazards, to ensure the site remains protected, including the dry fuel store and taking updated climate change projections into account for coastal flood hazard.
- 4.366 The Secretary of State therefore agrees with the ExA's conclusions on the matter of flood risk.

*Groundwater and surface water*

- 4.367 Groundwater and surface water assessments were undertaken for both the construction and operational phases of the Proposed Development [ER 5.11.73]. The EA confirmed in its Written Representation ("WR") that it was content, following extensive pre-application discussions, that the groundwater modelling submitted by the Applicant was a sound evidence base to inform the ES [ER 5.11.212].

- 4.368 The RSPB and SWT expressed concerns that the wetland areas of Minsmere and Sizewell Marshes would be at risk from changes to their hydrology, potential impacts on Minsmere Sluice, and the hydrological cut-off wall impacting Sizewell Marshes and Minsmere South Levels [ER 5.11.213]. The Suffolk Coastal Friends of the Earth were concerned about the ecological impact of the Proposed Development on the Sizewell Marshes SSSI resulting from the approach the Applicant had taken with respect to the Water Monitoring and Mitigation Plan, a concern shared by a number of other IPs [ER 5.11.214]. In its SoCG, the EA has no disagreement with the Applicant's approach to groundwater management and the Water Management and Response Strategy [ER 5.11.222].
- 4.369 The ExA is satisfied that the Applicant's approach to groundwater and surface water management is appropriate [ER 5.11.226] and that the controls that would be secured within Requirement 11 of the draft Order would ensure that there would be effective ongoing monitoring of the water regime within the Sizewell Marshes SSSI [ER 5.11.227].

#### *Drainage Strategy*

- 4.370 The main drainage principle proposed by the Applicant is to mimic the existing environmental runoff patterns where possible, with the overarching surface water drainage philosophy following conventional sustainable drainage steps [ER 5.11.64].
- 4.371 In the ESC and SCC Joint LIR, the Councils raised concerns regarding the outline Drainage Strategy [ER 5.11.228]. The ExA agrees [ER 5.11.253] with the view expressed by SCC that the final version of the Drainage Strategy would not be suitable as a certified document within Schedule 24 of the dDCO (which is now Schedule 23 of the draft Order). Following advice from the ExA that it did not have sufficient time during the Examination to progress this matter further, on 18 March 2022, the Secretary of State requested further information from the Applicant [ER 5.11.254]. The Applicant submitted an updated version of the Drainage Strategy to the Secretary of State on 8 April 2022.
- 4.372 In responses to the Secretary of State's invitation for comments, SCC confirmed that it considers the revised Drainage Strategy to now be an acceptable 'Level 1' Certified Control Document in respect of drainage matters and supports the Applicant's invitation to the Secretary of State to replace the contested DL10 version of the Drainage Strategy with revision 2.0 of the Drainage Strategy. SCC reiterated its request that Requirement 5 be amended so that SCC, as the Lead Local Flood Authority ("LLFA"), is the discharging authority for surface water drainage (as opposed to ESC). SCC highlighted that for the EA1N and EA2 projects, the ExA concluded that SCC as LLFA should be the discharging and approving authority both in relation to surface water and drainage management plan and the flood management during construction and for the Operational Drainage Management Plan.
- 4.373 ESC also responded on this point and confirmed that it strongly supports the current drafting of Requirement 5 which identifies ESC as the discharging authority in respect of foul and surface water drainage. ESC notes that it is well versed in managing technical input from a number of different bodies, and



agrees that both foul and surface water drainage should be considered together, rather than having separate drainage strategies approved by different authorities, to ensure that a comprehensive strategy is delivered. ESC also notes that it is the enforcement authority responsible for securing compliance with the approved foul and surface water drainage plans and it is sensible in those circumstances for ESC to approve the detailed water drainage plans. ESC acknowledge that a different approach was taken by the ExA within the EA1N and EA2 projects, but states that this should not set a precedent for the Proposed Development. The Secretary of State agrees with ESC. The Secretary of State considers that the proposed drafting of Requirement 5 submitted in April 2022 by the Applicant in its revised draft Order is appropriate.

#### *Water Framework Directive Compliance*

- 4.374 A detailed Water Framework Directive Compliance Assessment (“WFDCA”) was undertaken to determine whether the Proposed Development is compliant with the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (“WFD”) [ER 5.11.121]. Following the screening and scoping process of the MDS, construction and operational activities were assessed in detail for the Leiston Beck, Minsmere Old River, Waveney East Suffolk Chalk and Crag and Suffolk coastal water bodies [ER 5.11.152]. With regard to the associated development sites, only the TVB (River Alde water body) and the SLR (Minsmere Old River water body) were carried forward to a detailed assessment [ER 5.11.153]. The result of the detailed assessments indicated that for all water bodies and activities, no change in their status is predicted, there is no prevention of the implementation of improvement measures, with operational impacts predicted to be small and localised and therefore not contributing to a deterioration in the status of the water bodies [ER 5.11.154]. No water bodies are at risk of deterioration such that the class status for any parameters would decrease, and consequently the Applicant considers the proposed activities are compliant with the requirements of the WFD [ER 5.11.156].
- 4.375 The ExA is satisfied [ER 5.11.310] the Applicant has demonstrated compliance with the WFD as far as it is possible without the combined consideration of effects from the EA, and [ER 5.11.311] that the EA still need to complete the combined assessment for WFD compliance, after completion of the relevant environmental permitting processes.
- 4.376 Following a recommendation from the ExA, on 18 March 2022, the Secretary of State asked the EA to provide an update on its position regarding environmental permitting relating to marine water quality, with particularly reference to the Water Discharge Activity (“WDA”) Environmental Permit. The EA was also asked to confirm whether the combined assessment for WFD compliance had been completed.
- 4.377 The EA responded that it is preparing the proposed decision document on environmental permit applications for WDA, combustion activity, and radioactive substances activity, and that a HRA has been undertaken for each permit alone, and in combination, and these have been reviewed by NE. With regard to the WFD assessment, the EA notes that the Applicant did not provide

an in-combination assessment in support of the application for this permit, as this impact is covered by the WFD assessment submitted in support of the Application. The EA's response notes that all environmental permit decisions are in draft form, and will be publicly consulted on during June 2022. To help with the Secretary of State's assessment of WFD Compliance, the EA appended a final draft of the WFD compliance assessment for the WDA environmental permit to its response.

- 4.378 The EA provided no further response to the Secretary of State's invitation for comments on 25 April 2022.

*Overall conclusions on flooding and water resources*

- 4.379 The ExA is satisfied [ER 5.11.312] the Applicant has fully addressed the flood risk associated with construction and operation of the Proposed Development and has demonstrated the associated flood risks can be satisfactorily mitigated and managed, and consequently, the assessment of flood risk complies with NPS EN-1. The ExA is satisfied [ER 5.11.314] that taking into account all of the submitted evidence the Applicant's approach to groundwater and surface water management is appropriate and concludes that this matter does not weigh for or against the Order being made. The ExA concludes [ER 5.11.316] that the Applicant has fully considered the effects of the Proposed Development with respect to the policy requirements set out in NPS EN-1 and EN-6. The Secretary of State sees no reason to disagree with the ExA's conclusions on these matters.
- 4.380 With regard to the outstanding matters of Drainage Strategy and WFD Compliance, the Secretary of State is satisfied that, following the information provided in response to his letter of 18 March 2022, he has sufficient information to satisfy him that these matters have been resolved.
- 4.381 The Secretary of State attributes neutral weight to flood risk, groundwater and surface water for or against the making of the Order.

Health and Wellbeing

- 4.382 The ExA notes [ER 5.12.1 et seq.] the relevant policy considerations for health and wellbeing including EN-1 and EN-6, section 8 of the NPPF, and the Suffolk Coastal Local Plan 2020 policy SCLP3.4. The Applicant's ES Chapter 28, updated in the First ES Addendum and Third ES Addendum, assesses the effects on the health and wellbeing on sensitive receptors from the construction, operation, and, where relevant, removal and reinstatement activities associated with the project [ER 5.12.13 et seq.]. The health and wellbeing assessment was undertaken in accordance with the Health Impact Assessment guidance documents set out at [ER 5.12.16]. At [ER 5.12.17] the ExA sets out the approach to assess health and wellbeing effects during construction and the operational period. The ExA notes that the Applicant provided an updated Equality Statement to address the changes to the project since the application had been made [ER 5.12.24]. The Secretary of State notes that the Applicant considered that as the area as a whole has a significantly higher than average proportion of older people, the noise and air quality effects may disproportionately affect older people, who spend more time at home [ER

5.12.26]. The Secretary of State also notes that the Applicant recognises that the Proposed Development has the potential to affect people with protected characteristics disproportionately and in doing so has built into the CoCP obligations to mitigate against these effects to minimise these impacts [ER 5.12.27]. The ExA considers that primary mitigation is set out in various ES Chapters, the mitigation identified to address the issues raised within these topic areas will also reduce any adverse effects on health and wellbeing [ER 5.12.28]. The Applicants primary mitigation is set out at [ER 5.12.28 et seq.] and matters arising during the course of the Examination at [ER 5.12.45 et seq.].

- 4.383 The potential adverse effects on human health and wellbeing were the subject of debate during ISH12 [ER 5.12.118 et seq.]. The ExA states [ER 5.12.120] that in so far as health and wellbeing issues are concerned, it is satisfied the Applicant has taken into account all the issues raised through the Examination in a reasonable and proportionate way. Whilst the ExA notes the concerns raised by those living, visiting, and working in the vicinity of the Proposed Development in relation to a range of environmental effects, it considers these have been appropriately addressed by the Applicant [ER 5.12.120]. The range of mitigations secured include the CoCP, CWTP, CTMP, Public Services Resilience Fund, Community Fund, Residual Healthcare Contribution, and School and Early Years Capacity Contribution, which would ensure the Proposed Development would comply with EN-6 as the Applicant has worked with the Local Authorities and health care providers to identify any potentially significant health impacts and appropriate mitigation would be provided [ER 5.12.121].
- 4.384 The ExA agrees with the potential for the Proposed Development to impact on vulnerable groups and people with protected characteristics and considers the Applicant has properly assessed the impacts through the Equalities Assessment and update. This concluded that the Proposed Development would likely provide a range of benefits that could be shared with groups with protected characteristics including direct benefits such as walking and cycling provision. The ExA agrees that the mitigation measures proposed and secured through the CoCP, DoO and DCO would assist in minimising any negative impacts [ER 5.12.122]. It notes that identified health and wellbeing performance indicators agreed with the CCG would be monitored through the Health and Wellbeing Group secured via Schedule 6 of the DoO which would allow for ongoing monitoring of the ES assessment forecasts to ensure they are properly monitored and if additional adverse effects arise which have not been identified, provide an opportunity for additional mitigation [ER 5.12.123]. The Community Fund is proposed as part of the DoO to fund measures, projects and programmes in local communities which seek to improve quality of life for those most affected [ER 5.12.124].
- 4.385 The ExA notes that once operational the Applicant has confirmed that any changes to site transmissions infrastructure would comply with the Department for Energy and Climate Change (“DECC”) Code of Practice to ensure compliance with the International Commission on Non-Ionizing Radiation Protection (“ICNIRP”) guidance set to protect health [ER 5.12.125]. Monitoring of wider environmental health determinants would be provided and set at

environmental thresholds that protect environment and health, facilitating interventions where this is exceeded [ER 5.12.126]. Occupational healthcare provision would be monitored, as would referral rates to test effectiveness, Key Performance Indicators (“KPIs”) are set out in Annex E of the DoO. Schedule 6 of the DoO (Health and Wellbeing) sets the broad terms of reference for the SZC Health Working Group through the construction phase along with the Community Fund in Schedule 14 of the DoO [ER 5.12.127].

4.386 The ExA notes that in the medium to long term improved access to the countryside brought about by the changes to the PRoW network would be of beneficial effect to health and wellbeing which can be ascribed moderate weight to the Order being made [ER 5.12.128]. Additional legacy benefits from the provision of the TVB and SLR would arise to health and wellbeing by removing traffic from communities affected and the consequent reduction in noise, improved air quality and general sense of place because of the reduced traffic. The ExA ascribes moderate weight for the Order being made to these benefits [ER 5.12.130]. The ExA ascribes little weight at this stage to the B1122 repurposing scheme as the full details of the scheme are yet to be finalised and the timing of their provision is subject to both further consultation and final design following the preparation of the Local Transport Programme [ER 5.12.131]. The Secretary of State agrees with the ExA’s conclusions on these matters.

4.387 Towards the end of the Examination as part of further mitigation being proposed by the Applicant, pedestrian crossings were proposed on the A12 and B1122 [ER 5.3.150]. This is considered further in the Air Quality section of this letter. The Secretary of State has considered the further information from the Applicant in relation to Air Quality, noise and driver delay, with the controls in place is satisfied that the consequences of such measures have been fully considered and addressed.

4.388 The ExA concludes at [ER 5.12.132] that the Proposed Development would accord with NPS EN-1 and EN-6 and that the harm identified to health and wellbeing would be adequately mitigated by the obligations in the DoO and the Requirements of the Order. Whilst adverse impacts are identified, the ExA is of the view that they are appropriately mitigated where necessary and the ExA considers that there are no matters relating to this issue which would weigh against the Order being made [ER 5.12.133].

4.389 The Secretary of State agrees with the ExA’s conclusions on these matters.

#### Historic Environment (Terrestrial and Marine)

4.390 The ExA notes [ER 5.13.2 et seq.] the relevant policy and legislation considerations for the historic environment, as well as the relevant guidance, including the policy set out in NPS EN-1, the NPPF, the Infrastructure Planning (Decisions) Regulations 2010 and the Marine and Coastal Access Act 2009.

4.391 The Applicant’s ES contains an assessment of effects on the terrestrial historic environment for construction, operation, and, where relevant, removal and reinstatement of the MDS. The ExA notes [ER 5.13.18 et seq.] that the Applicant submitted Associated Development Design Principles (“ADDP”), an

Overarching Archaeological Written Scheme of Investigation (“WSI”) and Peat Strategy. With regard to marine historic assets, the ExA notes [ER 5.13.21] that a “finds reporting protocol” is proposed, which would permit the identification of any encountered material of archaeological interest within the site, to allow it to be appropriately investigated, recorded and disseminated, and that this would be set out within a Marine Archaeological WSI secured via Condition 16 of the DML.

- 4.392 With regards to mitigation, the ExA notes [ER 5.13.24] that the Application includes a Mitigation Route Map, for the MDS [ER 5.13.25], and for the marine historic environment [ER 5.13.28], that sets out primary mitigation measures. The ExA notes that relevant documents, including the Lighting Management Plan [ER 5.13.26], the oLEMP [ER 5.13.27], CoCP [ER 5.13.29], and the DoO [ER 5.13.30] were updated during the Examination. The ExA notes [ER 5.13.32] that embedded mitigation measures for associated development sites are detailed within the ADDP, and that the TVB LEMP and the SLR LEMP, both updated during the Examination, include design objectives to minimise effects on heritage assets and include hedgerow management measures for both sites. The ExA also notes that tertiary measures are included in the CoCP.
- 4.393 In its final position summary, ESC confirmed that the DoO and dDCO would ensure the best possible mitigation package, and SCC had no unresolved historic environment matters [ER 5.13.36]. The ExA notes [ER 5.13.37] that following revisions and amendments made by the Applicant, Historic England has reached common ground with the Applicant in respect of the historic environment, and had confirmed that the detail in the DoO is acceptable in principle.

#### *Main Development Site*

- 4.394 In relation to the MDS, the ExA is satisfied [ER 5.13.47] that any adverse effects or archaeological assets would be offset to levels considered not significant following mitigation and that the harm would be less than substantial. The ExA attributes [ER 5.13.49] little weight relating to archaeological assets against the Order being made.
- 4.395 With regard to Leiston Abbey (First Site) with later chapel and pillbox, the ExA accepts [ER 5.13.54] that during both construction and operation the introduction of the proposed built form would result in a modest decline of both the appreciation of the architectural value and historic interest of this asset. However, the ExA is content [ER 5.13.55] that all reasonable steps have been taken through primary design mitigation and Schedule 8 of the DoO to minimise these detrimental effects, and is satisfied that such measures would give rise to less than substantial harmful effects. The ExA ascribes [ER 5.13.58] moderate weight against making the Order in respect of this asset.
- 4.396 With regard to the Grade I and Grade II listed buildings, and associated non-designated structures at Leiston Abbey (Second Site), the ExA concurs [ER 5.13.67] that the greatest perceptual change would occur at St Mary’s Abbey as a result of the change in views and increase in noise levels due to construction activity, and notes [ER 5.13.68] there would be some loss to the historic interest of the asset during the entire construction phase although this

would be temporary and transient in nature. The ExA is satisfied [ER 5.13.70] that whilst some loss of historic interest would occur, this would give rise to less than substantial harm, and the ExA is content [ER 5.13.71] that all reasonable steps have been taken through primary design mitigation and Schedules 8 and 13 of the DoO to minimise the effects where practicable. Overall, the ExA ascribes [ER 5.13.75] moderate weight against making the Order in respect of this asset.

- 4.397 The ExA considered the impact of the MDS on the Grade II listed buildings and non-designated structures at Upper Abbey Farm [ER 5.13.76 et seq.], the Grade II listed Abbey Cottage 450m south-west of Upper Abbey Farm [ER 5.13.87 et seq.], the Grade II\* Theberton House and Grade II Potter's Farmhouse [ER 5.13.93 et seq.], the Leiston Conservation Area [ER 5.13.103 et seq.], the non-designated Coastguard Cottages on Dunwich Heath [ER 5.13.108 et seq.], the non-designated Pillbox in Pillbox Field [ER 5.13.119 et seq.], and the historic landscape character [ER 5.13.128 et seq.], and the historic seascape character [ER 5.13.139 et seq.], and ascribed little weight against the making of the Order in respect of these assets.
- 4.398 The ExA notes [ER 5.13.144] the other heritage assets assessed by the Applicant in respect of the MDS, with the assessment concluding [ER 5.13.145] that no effect on heritage significance would occur during construction or operation. The ExA is content [ER 5.13.147] with the findings of the assessments, and considers [ER 5.13.148] there are no matters relating to these other assets that would weigh for or against the Order being made.
- 4.399 With regard to the marine historic environment, there is the potential for further assets dating to all periods within the site, although these would most likely be of low to medium heritage significance [ER 5.13.149]. The Applicant identified secondary mitigation measures, including the adoption of a find reporting protocol and undertaking analysis of stratified sediment samples [ER 5.13.150]. With these mitigation measures in place, the Applicant confirms no significant adverse residual effects would occur during construction or operation phases [ER 5.13.151]. The ExA quantifies the associated harm as less than substantial and is content that the DML provides sufficient security for the proportionate investigation, treatment, recording and advancement of understanding of the significance of heritage assets, and is satisfied adequate mitigation of risk to any archaeological assets would be secured through the required marine archaeological WSI [ER 5.13.153 et seq.]. The ExA attributes [ER 5.13.155] little weight to matters relating to marine heritage assets against the Order being made.

#### *Sizewell Link Road ("SLR")*

- 4.400 In relation to the SLR, the Applicant states that archaeological remains within the site would be substantially disturbed, if not removed entirely by construction, and that this would result in significant adverse effects [ER 5.13.156]. However, secondary mitigation in the form of a site-specific WSI would ensure the archaeological interest of any significant deposits and features would be appropriately investigated, recorded and disseminated [ER 5.13.157]. The ExA is satisfied [ER 5.13.158] that any adverse effects on

archaeological heritage assets would be offset to levels considered not significant following mitigation and any harm would be less than substantial. The ExA attributes [ER 5.13.160] little weight relating to archaeological heritage assets against the Order being made.

- 4.401 With regard to the Grade II gate and gate piers at the junction of Leiston Road and Onner's Lane, during construction and operation of the SLR, no impact on heritage significance was reported and no effect identified [ER 5.13.161]. The ExA notes [ER 5.13.162 et seq.] the concerns of the landowners, regarding a listed gate that they were concerned would be destroyed. The Applicant confirmed that they are aware of the gate and the road layout construction and mitigation packages were designed to protect the listed feature [ER 5.13.164]. The ExA agrees [ER 5.13.166] that no effect on heritage significance in respect of the gates and piers would occur, and considers [ER 5.13.168] that there are no matters relating to these assets which would weigh for or against the Order being made.
- 4.402 With regard to the Grade II\* Theberton House and the associated listed buildings, no impact on heritage was reported, with no effect identified, during construction or operation [ER 5.13.169]. The ExA notes [ER 5.13.170] that Mr and Mrs Dowley, the landowners of the assets, raised concerns that the SLR, along with the roundabout at the MDS, and borrow pits, would have a material adverse effect on their home and other properties, and raised concern at the removal of a strip of protective shelter belt at the edge of parkland. Following discussions, the Applicant confirmed it was feasible to reduce the Order Limits in this location [ER 5.13.171]. The ExA is content [ER 5.13.173] that the measures in the ADDP would help to assimilate the SLR into the existing landscape and agrees that no effect on heritage significance in respect of Theberton House and the associated properties would occur. The ExA considers [ER 5.13.175] there are no matters relating to these assets that would weigh for or against the Order being made.
- 4.403 In respect of the Grade II buildings at Theberton Hall, the ExA notes [ER 5.13.176] that during construction and operation, no effects are anticipated for the group of assets that include the gates, gateway, walling and well head, but construction would result in a temporary loss of historic interest in respect of the Hall itself, which would not be significant. The ExA notes [ER 5.13.177] that in respect of operation, and during the construction of the MDS, minor adverse effects would occur but these would not be significant, and following completion of construction of the MDS and the maturing of the proposed planting, no effects are anticipated. Mr Beaumont, the landowner of Theberton Hall, raised concerns [ER 5.13.178] throughout the Examination in respect of the proximity of the road to the asset. The Applicant responded that it is satisfied with the findings of its assessment and confirmed its commitment to landscape mitigation planting along the route of the SLR. The ExA is satisfied [ER 5.13.180] that the ADDP and LEMP are adequately secured in the draft Order, but contends [ER 5.13.182] that introduction of an additional highway development with permanent visual and audible elements in proximity to the asset, combined with the partial loss of the covert, would result in a moderate adverse effect during construction and operation, and concludes that the significance of the effect has been underplayed, with the ExA quantifying the

harm as less than significant. The ExA attributes [ER 5.13.183] moderate weight to matters relating to this asset against the Order being made.

- 4.404 With regard to the impact of the SLR on historic landscape character, the ExA notes [ER 5.13.184] that the Applicant reports minor adverse effects in respect of heritage significance, resulting in no significant effects. The ExA does not support [ER 5.13.186] the proposition that the historic landscape is of low heritage significance, and concludes that the significance effect during both construction and operation has been underplayed, and contends [ER 5.13.187] that the introduction of a suburbanising feature with permanent visual and audible elements would result in a moderate adverse effect during construction and operation, which would be significant. The ExA is satisfied that such harm would be less than substantial, and therefore attributes [ER 5.13.188] moderate weight to matters relating to this asset against the Order being made.
- 4.405 With regard to the other heritage assets identified by the Applicant in section 9.6 of the ES Chapter, the ExA notes [ER 5.13.189] that the Applicant reports that no effect on heritage significance would occur during either construction or operation. The ExA considers [ER 5.13.192] there are no matters relating to these assets that would weigh for or against the making of the Order. The ExA also notes that in respect of some assets [ER 5.13.193], during operation there would be a reduction in the visibility of traffic and traffic related noise due to the diversion of vehicles onto the proposed SLR, which would result [ER 5.13.195] in a permanent positive effect. It would be a minor beneficial effect which would not be significant. The ExA concurs [ER 5.13.197] that a small-scale legacy benefit in terms of the reinforcement of historic interest is likely, and overall ascribes [ER 5.13.198] little weight to matters relating to these assets for making the Order.
- 4.406 With regard to route alternatives, the ExA notes [ER 5.13.199] that the Middleton and Theberton landowners submitted a heritage assessment in respect of the SLR that concludes [ER 5.13.200] that the Applicant's heritage assessment regarding the SLR is flawed and that the northern variation of Route W would have had the least impact on heritage assets. The ExA has considered this assessment [ER 5.13.204] and is satisfied the Applicant has correctly undertaken the heritage assessment, finding the Applicant's assessment to be robust in respect of route selection, and attributing [ER 5.13.205] no weight to this issue which would weigh for or against making the Order.

#### *Two Village Bypass ("TVB")*

- 4.407 The ExA considered the impact of the TVB on archaeological heritage assets [ER 5.13.206 et seq.], the Grade II Farnham Hall and adjoining assets [ER 5.13.210 et seq.], the Grade II Church of St Mary [ER 5.13.224 et seq.], the non-designated Mollett's Farm [ER 5.13.238 et seq.], and the Grade II Benhallstock Cottages [ER 5.13.246 et seq.], and ascribed little weight to impacts on these assets against the Order being made.
- 4.408 With regard to the Grade II Glemham Hall Registered Park and Garden [ER 5.13.232 et seq.], the ExA is content that the TVB would not be visible from the east of the Hall, but considers a reduction in historic interest would occur as a



result of lighting columns of up to 10m at the roundabout. The ExA quantifies the identified harm as less than substantial and attributes little to moderate weight against Order being made.

- 4.409 With regard to the impact of the TVB on historic landscape character, the ExA considers [ER 5.13.257] that it would introduce additional linear development into an otherwise rural landscape and would bisect several historic field boundaries, with the ExA noting that the historic landscape character would be diminished although the TVB would not result in total loss of all reference to the historic landscape. The ExA disagrees [ER 5.13.258] that the historic landscape is of low significance, and concludes that the significance of effect has been underestimated by the Applicant, but is satisfied that such harm would be less than substantial. The ExA attributes [ER 5.13.259] moderate weight to matters relating to this asset against the Order being made.
- 4.410 The ExA considers the impact of the TVB on the other heritage assets listed by the Applicant [ER 5.13.260 et seq.], and notes that in respect of Little Glemham Hall and those assets associated with the Hall and Pond Barn, no effects are anticipated during the construction or operational phases. For the remaining assets on the list, the ExA notes [ER 5.13.262] that no effect on heritage significance is identified in respect of construction, and that as a consequence of the diversion of traffic due to the TVB, those assets would experience a permanent reduction in traffic noise. The ExA concurs [ER 5.13.264] with the findings of the assessments and attributes moderate weight to the identified benefits in respect of the permanent reduction in traffic and subsequent contribution to historic interest for the Order being made.

*Northern Park and Ride (“NPR”)*

- 4.411 The ExA considered the NPR’s impact on archaeological heritage assets [ER 5.13.265 et seq.], the historic landscape character [ER 5.13.268 et seq.] and the Grade II listed Oak Hall [ER 5.13.273 et seq.], and ascribed little weight to these matters against the Order being made. The ExA also considered the impact of the NPR on the Grade II Old Hall [ER 5.13.279 et seq.] and the Cockfield Hall complex [ER 5.13.283 et seq.], and ascribed no weight to matters related to these assets for or against the Order being made.

*Southern Park and Ride (“SPR”)*

- 4.412 The ExA considers the SPR’s impact on archaeological heritage assets [ER 5.13.293 et seq.], historic landscape character [ER 5.13.298 et seq.], the Wickham Market Conservation Area and associated listed buildings [ER 5.13.303 et seq.], and the Marlesford Conservation Area and associated listed buildings [ER 5.13.308 et seq.], and ascribed little weight relating to these matters and assets against the Order being made. The ExA also considered the impact of the SPR on other assets listed by the Applicant [ER 5.13.313 et seq.], and considers that there are no related matters that would weigh for or against the Order being made.

### *Yoxford Roundabout and Other Highway Improvements*

- 4.413 An environmental screening exercise was undertaken by the Applicant to identify which of the four proposed highway improvement works and two safety measures would give rise to environmental effects that may be significant [ER 5.13.318]. The exercise identified that the A12/B1122 Yoxford Roundabout and improvements at the A12/A144 junction south of Bramfield should be taken forward to the assessment of likely effects on the historical environment. The ExA is satisfied [ER 5.13.319] with this approach and is content that the remaining proposed works and measures were screened out of the assessment.
- 4.414 With regard to the Yoxford Roundabout, the ExA considers its impact on the Yoxford Conservation Area [ER 5.13.320 et seq.], Cockfield Hall Complex [ER 5.13.332 et seq.], the non-designated Rookery Park [ER 5.13.355 et seq.], and the other heritage assets listed by the Applicant [ER 5.13.364 et seq.] and ascribes little weight to these assets and matters against the making of the Order. The ExA considers the impacts of the improvements at the A12 and A144 on Stone Cottage, a Grade II listed building, [ER 5.13.372 et seq.] and ascribed little weight against making the Order in respect of this asset.

### *Freight Management Facility ("FMF")*

- 4.415 The ExA considers the impact of the FMF on the scheduled bowl barrows and ring ditch south-west of Redhouse Farm [ER 5.13.376 et seq.], and the historic landscape character [ER 5.13.382 et seq.] and attributes little weight relating to these matters and assets against the Order being made.

### *Rail Extension*

- 4.416 The ExA considers the rail extension's impact on archaeological heritage assets [ER 5.13.389 et seq.], the Grade II Wood Farmhouse [ER 5.13.404 et seq.], and the other heritage assets assessed by the Applicant [ER 5.13.408 et seq.], and attributes little weight to these assets against the Order being made.
- 4.417 In terms of the Grade I and Grade II listed buildings and associated non-designated structures at Leiston Abbey (second site), the ExA concurs [ER 5.13.399] that during construction, operation, and, to a lesser degree, removal and reinstatement, the assets as a group would experience significant effects, but the ExA is satisfied that the effects would result in less than substantial harm. The ExA is content [ER 5.13.400] that all reasonable steps have been taken through primary design mitigation and Schedules 8 and 13 of the DoO to minimise effects on the Abbey site where practicable, and that measures would also provide visitors with a better understanding of the site and better reveal the significance of the Abbey providing a legacy benefit. The ExA attributes [ER 5.13.403] moderate weight against making the Order in respect of this asset.

### *Project-wide, cumulative and inter-relationship effects*

- 4.418 In respect of cumulative considerations, the ExA notes [ER 5.13.419] the Applicant's confirmation that where mitigation in the form of an agreed WSI is

in place, no significant effects are identified, and that no effects are identified in respect of the historic landscape character or the setting of heritage assets.

- 4.419 The ExA is satisfied [ER 5.13.422] that the Applicant's assessments in respect of cumulative, project-wide and inter-relationship effects have considered relevant historic environment aspects and is content with the findings. The ExA is satisfied [ER 5.13.423] that the Applicant has addressed how individual environmental effects of the Proposed Development combine together with one another and lead to significant effects on a single receptor. The ExA is content [ER 5.13.424] that, in respect of St Mary's Abbey and Leiston Abbey (second site), the identified significant effects would be temporary in nature and the harm would be less than substantial. The ExA ascribes [ER 5.13.425] moderate weight against making the Order in respect of these issues.

### *Conclusion*

- 4.420 The ExA finds [ER 5.13.427] that policy on the historic environment within NPS EN-1 has been followed by the Applicant, and notes that this policy is consistent with the aims of Section 16 of the NPPF and with the aims of the relevant policies of the local authorities' development plans. The ExA is satisfied [ER 5.13.431 et seq.] that for those individual identified assets, the Proposed Development would result in less than substantial harm to the historical significance of those assets. The ExA notes [ER 5.13.434] that the initiatives secured within the Order will assist in mitigating any residual effects and will provide legacy benefits in terms of improvement to the longer-term conservation of assets and their settings. The ExA concludes [ER 5.13.435] that the very substantial public benefits of the Proposed Development would strongly outweigh the less than substantial harm to the significance of the historic asset concerned. The ExA ascribes [ER 5.13.436] moderate weight to matters relating to the historic environment against making the Order in the overall planning balance.
- 4.421 The Secretary of State has considered the ExA's reasoning and does not agree with the ExA's conclusion that moderate weight should be ascribed to matters relating to the historic environment against the making of the Order.
- 4.422 The Secretary of State disagrees with the ExA's suggestion that the investigation, recording and dissemination of the removal of archaeological remains in some way mitigates harm to archaeological features. Such steps are required but do not amount to mitigation of harm. The Secretary of State notes the conclusion of the Applicant that there would be significant adverse effects for several groups of archaeological assets. The Secretary of State attributes substantial weight to the impacts on archaeological assets.
- 4.423 The Secretary of State has also noted the harms to designated heritage assets and agrees with the ExA's conclusion in relation to the significance of those assets and the level of harm to each designated asset. However, the Secretary of State considers that where the Proposed Development gives rise to an identified harm to a heritage asset in this case, he should give that harm considerable importance and weight. The Secretary of State attributes substantial weight to impacts on designated heritage assets.

4.424 Overall, the Secretary of State, therefore, considers that substantial weight should be ascribed to matters relating to the historic environment against the making of the Order and this has been carried through to the overall planning balance. However, in light of the public benefit of and urgent need for the Proposed Development, the Secretary of State does not consider that the impacts on the historic environment on their own provide a justification not to make the Order.

#### Landscape Impact, Visual Effects and Design

4.425 Landscape impacts, visual effects and design were identified as a principal issue in the ExA's initial assessment. The ExA notes the relevant policy considerations set out in NPS-EN1, including paragraph 5.9.8 which notes that virtually all nationally significant energy infrastructure projects will have effects on the landscape [ER 5.14.2 et seq.]. Such projects should be designed carefully to minimise harm to the landscape, and to provide reasonable mitigation where possible and appropriate. With regards to the most protected landscape and scenic designations of National Parks, the Broads and AONB designations, EN-1 states that the conservation of the natural beauty of the landscape and countryside should be given substantial weight when deciding applications for development consent in those areas and development consent may be granted in exceptional circumstances, as set out in paragraph 5.9.10 of EN-1, and, if consented, the decision-maker should ensure the project is carried out to high environmental standards. EN-1 also highlights the need for the decision-maker to consider whether the project has been demonstrated to be in the public interest [ER 5.14.4].

4.426 NPS EN-6 states that the decision maker should not expect visual impacts associated with a nuclear power station to be eliminated with mitigation, and that scope for visual mitigation is limited [ER 5.14.10]. NPS EN-6 also recognises that for this site there are likely to be some long lasting direct and indirect adverse effects on landscape character and visual impacts on the Suffolk Coast and Heaths AONB. Mitigation should be designed to reduce the visual intrusion of the project as far as reasonably practicable.

4.427 Chapter 15 of the NPPF contains overarching policies for conserving and enhancing the natural environment [ER 5.14.15 et seq.], and Chapter 12 of the NPPF contains overarching policies for design [ER 5.14.18 et seq.].

4.428 Various documents related to landscape impacts, visual effects and design were submitted as part of the Application, including:

- Chapter 13 of the ES, which sets out the Applicant's assessment of landscape and visual receptors.
- The ES Addendum, which provides additional and updated information to that within ES Chapter 13, as well as a revised assessment for landscape and visual receptors resulting from the construction and operation of a new, temporary marine bulk import facility.
- The Design and Access Statement provides detail regarding the design rationale of the MDS, including the accommodation campus.

- ADDP that describe the principles that relate to the design of the associated development sites. The ADDP were amended and updated throughout the Examination.
- A Lighting Management Plan (“LMP”) was also updated during the Examination.
- An oLEMP, which was updated during the Examination. This seeks to provide clear objectives and general principles for the establishment and longer-term management of the landscape, and ecological mitigation proposals identified for the MDS following construction.

4.429 Several further submissions were made by the Applicant at the Examination deadlines [ER 5.14.23].

4.430 The Applicant set out a number of primary mitigation measures for the MDS, including the design and specification of new buildings to be in keeping with the existing site context, limiting light spill through the orientation of buildings and keeping areas unlit when not in use, providing directional lighting and a boundary fence along the western edge of the western access to act as screening, the retention of existing vegetation along the site perimeter as far as practicable, and enhancing retained planting with new planting [ER 5.14.26]. Additional tertiary mitigation was also included, with those mitigation measures relevant to the landscape and visual assessment included in the CoCP [ER 5.14.28]. In respect of associated development sites, embedded mitigation measures are detailed within the ADDP, with tertiary mitigation measures detailed in the CoCP. Landscape works in relation to the SLR and TVB would be managed in accordance with the relevant LEMPs [ER 5.14.30]. The DoO also contains obligations in the form of Schedules which the Applicant and local authorities consider necessary to mitigate the adverse effects of the Proposed Development and maximise its benefits.

*Main Development Site (“MDS”)*

4.431 The ExA considered the landscape/seascape and visual impact assessment and was satisfied with the approach and methodology adopted, but noted the concerns raised by IPs regarding some of the assessment’s findings, with these matters discussed in the subsequent sub-sections of the ExA Report [ER 5.14.34 et seq.].

4.432 The ExA considered the design approach and overarching landscape vision, and ascribed moderate weight to this matter for making the Order, due to the landscape improvements delivered through the Estate Wide Management Plan that would bring multiple benefits to the wider area in landscape and visual terms, and also green infrastructure and biodiversity benefits [ER 5.14.39 et seq.].

4.433 The landscape and visual matters related to lighting [ER 5.14.68 et seq.], the accommodation campus [ER 5.14.84 et seq.], relationship with Sizewell B [ER 5.14.96 et seq.], and the permanent beach landing facility and temporary marine bulk import facility [ER 5.14.124 et seq.], with the ExA ascribing moderate weight to these matters against the Order being made.

- 4.434 The ExA considered the turbine halls and operational service centre [ER 5.114.110 et seq.], the ISFS [ER 5.14.116 et seq.], coastal sea defences [ER 5.14.136 et seq.], power export connection [ER 5.14.164 et seq.] and ascribed little weight to these matters against the Order being made.
- 4.435 With regard to the temporary desalination plant, the ExA concludes that, whilst its presence would comprise additional infrastructure, there are no matters relating to the landscape and visual effects arising from it that would weigh for or against the Order being made [ER 5.14.158 et seq.]. Similarly, the ExA concludes [ER 5.14.179] that no matters relating to the landscape and visual effects from the outage car park at Goose Hill [ER 5.14.171 et seq.] would weigh for or against the making of the Order. The ExA considers there are some benefits from the supplementary planting which would be undertaken in this area.
- 4.436 Having considered the landscape and visual effects of the SSSI crossing [ER 5.14.147 et seq.], the ExA concludes the amended design submitted by the Applicant is more appropriate for the sensitive location within the SSSI, and considers that the Applicant has minimised adverse landscape and visual effects through appropriate siting, design and colours, the SSSI crossing would be designed carefully, and it has been designed to reduce visual intrusion as far as is practicable. The ExA had regard [ER 5.14.157] to the statutory purpose of the AONB and is satisfied that the SSSI crossing would moderate the adverse effects on the landscape, and that high environmental standards would be achieved through the discharge of Requirements and the commitments in the DAS.
- 4.437 The ExA ascribes little weight against the making of the Order to the landscape [ER 5.14.427] and visual [ER 5.14.430] effects arising from the development of the MDS.
- 4.438 The Secretary of State agrees with the ExA's conclusions on the matters set out above.

*Suffolk Coast and Heaths AONB and Suffolk Heritage Coast ("SHC")*

- 4.439 The Proposed Development would be in a relatively narrow section of the AONB and partially located in the SHC [ER 5.14.180]. The statutory purpose of the AONB is defined as 'to conserve and enhance the natural beauty of the AONB'. The purpose of the SHC includes the conservation, protection and enhancement of the natural beauty of the coast.
- 4.440 Features that would be introduced to the AONB include the main buildings on the MDS, new roads, pylons, infrastructure on the beach, a crossing in the SSSI, car park, heavy goods vehicle movements, increased height of sea defences, significant levels of lighting and human and vehicle movements associated with the adjacent accommodation campus [ER 5.14.183]. In respect of landscape and visual mitigation measures, the DoO has been drafted and executed with both ESC and SCC, and the measures secure monetary packages towards necessary mitigation and other controls, monitoring packages, triggers and onward payments to other organisation to mitigate the adverse impacts arising from the Proposed Development [ER 5.14.185]. This

includes a Natural Environment Improvement Fund (“NEIF”), with a minimum of 50% of this fund allocated to projects within the AONB and SHC.

- 4.441 During the Examination, the issues of whether adverse effects are localised in the AONB [ER 5.14.188 et seq.], possible severance of the AONB [ER 5.14.192 et seq.], construction effects in the AONB [ER 5.14.196 et seq.], operational phase effects including design principles in the AONB [ER 5.14.203 et seq.], mitigation and enhancement [ER 5.14.214 et seq.], statutory purpose of the AONB [ER 5.14.222 et seq.], and compliance with the NPPF [ER 5.14.243 et seq.] were considered.
- 4.442 The ExA is content that the tests for alternatives have been met and considers the detrimental effects on the landscape character and views that would arise have been mitigated as far as is reasonably practicable for both construction and operational phases in accordance with EN-1 paragraphs 4.4.2 and 5.9.10 [ER 5.14.436]. The ExA considers the policy requirement to consider undergrounding and guidelines for routeing overhead lines have been met, although the selected option of an overhead line will result in harm to the landscape qualities of the AONB. The ExA is satisfied [ER 5.14.438] that the recommended Order and DoO would secure high environmental standards through Requirements and other enhancements, with weight given to the NEIF and Resilience Fund, which is secured. Similarly, the ExA notes the NPPF’s position on proposed development in AONBs and SHCs, and is satisfied that there are controls in the recommended Order and DoO that ensure conservation and enhancement of landscape and scenic beauty, and in particular the ExA gives weight to the NEIF and the proposed wider landscape enhancements [ER 5.14.440]. The ExA is satisfied that the exceptional circumstances in terms of effects on the landscape are met [ER 5.14.440]. See paragraphs 176 to 178 of the NPPF for the reference to exceptional circumstances.
- 4.443 With regards to whether effects are localised in the AONB, the ExA concludes that there would be much wider and significant adverse effects than concluded in the Applicant’s assessment, and that although the adverse effects are reversible within a reasonable time scale in light of the nature of the proposal, adverse effects are noted [ER 5.14.442]. The ExA ascribes very substantial weight against the Order being made to effects on the AONB and SHC for the construction phase [ER 5.14.443]. For the operational stage, the ExA considers that delivery of landscape vision and design principles would provide enhanced naturalised landscapes in the wider area and that the buildings would meet high design standards, but that the natural beauty of the landscape, seascape and countryside would be adversely affected [ER 5.14.444]. The ExA considers that whilst the embedded mitigation would be appropriate for the sensitive landscape, that significant adverse effects would be experienced on a wider geographical scale than concluded by the Applicant [ER 5.14.445].
- 4.444 The ExA ascribes substantial weight to effects on the AONB and SHC for the operational phases against the Order being made [ER 5.14.446]. The Secretary of State agrees with the ExA’s conclusions on this matter.

### *Associated Development Sites*

- 4.445 Chapter 2, paragraph 2.3 of Volumes 3 to 9 of the ES confirms that the Applicant has adopted a parameters approach to ensure that the design process has adequate flexibility to allow the Proposed Development to be delivered. The associated development sites are to be constructed, operated and maintained within the lines or situations shown on the Works Plans, to accord with the approved plans which will include a Parameter Plan, and accord with the design principles in the ADDP [ER 5.14.251]. Section 2 of the ADDP outlines the general design principles to apply across all associated development sites. The design principles within the ADDP are secured by Requirements 31, 33, 35, and 36 in the draft Order [ER 5.14.255].
- 4.446 With regard to the SLR and TVB, the Applicant submitted LEMPs that provide clear objectives and general principles for the establishment and longer-term management of the landscape, and ecological mitigations identified for the areas within those sites following construction. The ExA notes [ER 5.14.257] the overriding intention of the LEMPs are to conserve, restore and enhance landscape character and biodiversity.
- 4.447 The ExA is content [ER 5.14.263 et seq.] with the approach within the ADDP and the two LEMPs and the way in which they are secured, and is satisfied adequate control exists within the recommended Order to ensure the proposed landscape visions can be successfully delivered. The ExA considers [ER 5.14.264] such controls would minimise harm to the landscape and provide reasonable mitigation where possible. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.448 With regard to the SLR, the ExA concurs [ER 5.14.285] that during both the construction and operational phases, significant adverse effects would be experienced for some Visual Receptor Groups, but notes [ER 5.14.286] that all proposed energy infrastructure is likely to have visual effects for many receptors and proposed sites and it must consider whether such effects outweigh the benefits of the proposal. In the case of the SLR, the ExA considers the residual landscape and visual effects would be offset by the wider benefits of the SLR, in particular the permanent relief provided by the SLR to the B1122 communities and the opportunity to provide further enhancement to the local role of the B1122. Overall, the ExA is satisfied [ER 5.14.289] that, whilst some significant adverse effects would be permanent, all reasonable steps have been taken to minimise detrimental effects on landscape and visual amenity, including the setting of the AONB, arising during construction and operation. The ExA ascribes moderate weight against the Order being made to landscape and visual effects arising from the SLR [ER 5.14.290]. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.449 The Applicant states that the construction of the TVB would result in several landscape features being modified or removed. Primary landscape mitigation measures are included within the design of the TVB and are detailed in the relevant ES chapter [APP-421] and the ADDP. Tertiary mitigation measures to minimise landscape and visual effects during construction are detailed within the CoCP, which would be secured by Requirement 2 of the draft Order. The



Applicant states that no secondary mitigation measures are proposed other than the replacement of any plant failures within five years of planting.

- 4.450 The ExA notes that several IPs raised concerns about the effects of the TVB during the Examination, relating in particular to the proposed alignment of the TVB [ER 5.14.303]. The ExA acknowledges that although some Visual Receptor Groups would experience significant adverse visual effects during construction, these would be relatively localised and temporary in nature, and that the proposed design principles within the ADDP would provide reasonable mitigation [ER 5.14.308]. Overall, the ExA concludes that whilst there would be permanent residual significant adverse effects, the ExA is satisfied all reasonable steps have been taken to minimise detrimental effects on landscape and visual amenity during construction and operation as far as practical [ER 5.14.314].
- 4.451 The ExA ascribes moderate weight to landscape and visual effects from the TVB against making the Order [ER 5.14.315]. The Secretary of State sees agrees with the ExA's conclusions on this matter.
- 4.452 The Applicant states that construction of the temporary NPR and SPR would result in several landscape features being modified or removed. Primary landscape mitigation measures are included within the design of the NPR and are detailed in relevant ES chapters [APP-360, APP-390] and the ADDP. Tertiary mitigation measures for both NPR and SPR relate mainly to the control of lighting during construction, operation, and removal and reinstatement phases, and are detailed within the CoCP. As with the TVB, the Applicant states that the only proposed secondary mitigation measure is the replacement of any plant failures within five years of planting.
- 4.453 In the LIR produced by SCC and ESC, the Councils expect the visual effects of the NPR and SPR to be mitigated by temporary bunding and planting. The Councils requested that where planting is used, it is positioned so that it can be retained on a permanent basis.
- 4.454 With regard to the NPR, the ExA notes that Heveningham Hall Estate ("HHE") raised concerns regarding the impact of the NPR on the Estate, and suggested several amendments to the Requirements and Work No.9 of Schedule 1 within the draft Order [ER 5.14.322]. The ExA notes that the Applicant did not consider these proposed amendments and Requirements to be necessary and noted that the parameters and design principles were agreed with both ESC and SCC [ER 5.14.323, ER 5.14.325]. The ExA considered the concerns raised by HHE but consider that the proposed measures within the ADDP and CoCP are adequate and that the drafting of the relevant Requirements is satisfactory [ER 5.14.329 et seq.].
- 4.455 With regard to the SPR, the ExA notes that Campsea Ashe, Hacheston, Marlesford and Wickham Market Parish Councils commissioned their own review of the landscape and visual aspects and concluded that the likely effects on landscape and visual receptors is underestimated by the Applicant, with Marlesford Parish Council considering the SPR would introduce extensive areas of lighting into a landscape that is generally dark and the ExA notes that residents of Marlesford and surrounding villages valuing their relatively

unspoiled dark skies in an essentially rural area [ER 5.14.346]. The Applicant stated that the proposed lighting design, controlled by measures in the ADDP, would ensure that light fittings are chosen to limit light spill, using LED-based fittings with zero-degree tilt and demountable shields where appropriate [ER 5.14.350].

- 4.456 The ExA considers that changes to the landscape because of the SPR would result in significant adverse effects, but the magnitude of effect would reduce to not significant as a consequence of the maturation of additional planting and use of buffer zones [ER 5.14.328].
- 4.457 The ExA is satisfied [ER 5.14.332] that mitigation for the NPR as proposed and secured via the draft Order and ADDP has been designed as far as is practically possible to minimise harm to the landscape and provide mitigation where possible. Overall, the ExA accepts that significant adverse landscape and visual effects would occur, particularly until planting matures [ER 5.14.336 et seq.]. The ExA is satisfied [ER 5.14.351] that the site-specific and landscape design principles within the ADDP would provide adequate mitigation to reduce any adverse visual impact of the SPR, particularly in respect of lighting and legacy planting concerns.
- 4.458 The ExA also considers that, with regard to the SPR, the Applicant has fully considered lighting as part of the Landscape and Visual Impact Assessment, the detailed design of lighting would be secured through Requirement 33 of the recommended Order, and the CoCP would further assist in minimising adverse landscape and visual effects during both construction and removal and reinstatement phases [ER 5.14.352]. However, the ExA is mindful of the representations made by local Parish Councils in respect of the SPR, and the uncertainty surrounding the detailed planting proposals and whether legacy planting would be secured at reinstatement [ER 5.14.353].
- 4.459 Overall, the ExA therefore attributes moderate weight against the Order being made to landscape and visual effects from both the SPR and the NPR [ER 5.14.337, ER 5.14.356]. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.460 With regard to the Yoxford roundabout, the ExA is satisfied that any effects would be extremely localised as there would be a very limited change to the current views [ER 5.14.368]. The ExA notes ESC and SCC consider the associated landscape and visual effects to be of a low level and localised in nature [ER 5.14.361]. The ExA notes [ER 5.14.363] that HHE proposed additional measures, mainly relating to amendments to the Requirements within the draft Order, but the Applicant [ER 5.14.364] does not consider these proposals to be necessary. The ExA considered the concerns raised by HHE but are satisfied the proposed measures in the ADDP and CoCP provide adequate landscape and visual mitigation measures [ER 5.14.370].
- 4.461 The ExA is satisfied the highway improvement works and safety measures would not result in any significant adverse effects [ER 5.14.367]. The ExA considers there are no matters relating to the landscape and visual effects associated with the Yoxford roundabout and other highway improvements that would weigh for or against the Order being made [ER 5.14.372].

- 4.462 With regard to the temporary freight management facility (“FMF”), the ExA notes that both ESC and SCC, in their LIR, stated their support of the principle of an FMF, that the proposed location is broadly acceptable, subject to the Applicant providing evidence that the location is optimal, and any visual effects are anticipated to be mitigated by temporary planting and bunding [ER 5.14.377]. In respect of alternative locations, the ExA notes that the Applicant referred to the Site Selection Report and Chapter 3 of the ES which details the site selection process for the FMF [ER 5.14.378].
- 4.463 The ExA accepts that views from within the FMF or adjacent boundary would be significantly altered during construction and reinstatement for Receptor Group 1 but are content that this would result in relatively localised temporary effects [ER 5.14.379]. The ExA are satisfied the Applicant has given appropriate consideration to whether any adverse effect on the landscape is temporary and capable of being reversed in a reasonable timescale, in accordance with NPS EN-1. The ExA is satisfied with the Applicant’s explanation regarding alternatives and why the proposed site is the most suitable in respect of landscape and visual considerations [ER 5.14.380]. The ExA attributes moderate weight to the adverse landscape and visual effects arising from the FMF against making the Order [ER 5.14.381]. The Secretary of State agrees with the ExA’s conclusions on this matter.
- 4.464 The GRR is a temporary 4.5km rail extension from the existing Saxmundham to Leiston branch line to a terminal in the MDS. The proposal also comprises rail improvement works including track replacement and level crossing upgrades. Primary landscape mitigation measures are included within the design of the rail extension, and tertiary mitigation measures mainly relate to the control of lighting during construction and removal and reinstatement phases, and are detailed in the CoCP. The ExA notes that ESC and SCC accept that any adverse effects on landscape character and visual amenity would be temporary [ER 5.14.388].
- 4.465 The ExA considers that despite the mitigation measures, the GRR would result in a distinct change in landscape character, but that the proposed design principles contained within the ADDP would provide reasonable mitigation [ER 5.14.390]. The ExA also considers that although public rights of way would be diverted between landscape bunds resulting in adverse visual effects, the temporary nature of the extension means these adverse effects are capable of reversal in a reasonable timescale [ER 5.14.391]. The ExA ascribes moderate weight to the landscape and visual effects arising from the GRR against the making of the Order [ER 5.14.392]. The Secretary of State agrees with the ExA’s conclusions on this matter.

#### *Cumulative effects*

- 4.466 The ExA considered project-wide effects and concluded that no related matters weigh for or against the Order being made [ER 5.14.394 et seq.]. With regard to inter-relationship effects the ExA ascribed moderate weight against making the Order, noting that whilst most related adverse effects are mitigated, some significant adverse effects would remain for a small number of residential properties, and there were outstanding concerns regarding the inter-

relationship effects of landscape design and noise barriers as discussed in section 5.18 of the ExA Report [ER 5.14.397 et seq.]. The ExA notes that the Applicant is required to consider potential acoustic benefits for any hard landscaping proposals for the TVB and SLR with the objective of maximising additional acoustic screening, this must be undertaken in consultation with both ESC and SCC, and any agreed acoustic measures must be included in the final landscape design to be submitted for approval pursuant to Requirement 35 and Requirement 36 [ER 5.18.331]. In terms of cumulative effects with other plans, projects and programmes, the ExA ascribed little weight against making the Order in respect of this issue [ER 5.14.405 et seq.]. The Secretary of State agrees with the ExA on this matter.

#### *Decommissioning*

- 4.467 The ExA found no reason to disagree with the content of the Applicant's proposed approach set out in the high-level decommissioning strategy, as the methodology will be agreed with the relevant authorities and statutory consultees, and the works would be subject to a separate licencing and consenting approach [ER 5.14.417]. The Secretary of State agrees with the ExA on this matter.

#### *Compliance with other policies*

- 4.468 The ExA is content that the Applicant has given appropriate consideration to the scale and extent of the Proposed Development and has undertaken a robust assessment of potential impacts on the AONB, making its case for exceptional circumstances, and that adequate consideration has been given to the local context and design of the Proposed Development responds satisfactorily to the local context, as far as is practicable [ER 5.14.447]. The Secretary of State sees no reason to disagree with the ExA on this matter.

#### *Final conclusions on good design*

- 4.469 The ExA acknowledges there are likely to be some long lasting adverse direct and indirect effects on landscape character and visual effects on the AONB, but notes the Applicant has made a significant effort to achieve a high-quality DAS, which, combined with the management documents, set out robust design principles which give the necessary controls for post-consent discharges to confirm good design acting to mitigate the adverse landscape and visual effects of the MDS and the associated development [ER 5.14.449]. The ExA ascribes little weight against the Order being made to matters relating to good design in terms of appearance and adverse effects on landscape in views [ER 5.14.450]. The Secretary of State agrees with the ExA on this matter.

### Marine Ecology

- 4.470 The ExA notes the policy and legislation relevant to marine ecology considerations, including EN-1, EN-6, the Marine Policy Statement 2011 ("MPS") and the East Marine Plan 2014 prepared under it [ER 5.15.2 et seq.]. The Applicant assessed marine ecology and its ES concluded there would be no likely significant adverse effects [ER 5.15.12].

- 4.471 The issue of the effects of cooling systems was considered in relation to the entrapment of fish and other marine organisms. The ExA notes [ER 5.15.19] that calculating the effect on fish stocks is a matter of dispute between the Applicant, EA and NE. The MMO is largely content with the Applicant's approach. The Applicant's responses are set out in a number of documents [ER 5.15.74] and at DL6 the Applicant submitted a paper entitled Quantifying Uncertainty in Entrapment Predictions and a revision was issued at DL10 [REP10-135] [ER 5.15.76].
- 4.472 The ExA notes [ER 5.15.77] that the Executive Summary of the Quantifying Uncertainty in Entrapment Predictions paper records that "the results of the uncertainty analysis show that for all species, effects are below the thresholds that would trigger further investigation for potential population level effects". The Executive Summary goes on to report the mean loss figures for sprat (<0.03%), herring (0.01%) and whiting (0.08%), which it said were not significant at the population level, in other words they were below the 1% threshold [ER 5.15.77]. In relation to sand gobies the entrapment exceeded the 1% threshold (a species which concerned Dr Henderson for TASC) - the mean was 1.03% with an upper 95<sup>th</sup> percentile estimate of 1.41% [ER 5.15.78]. In relation to TASC's criticism that the intake tunnels would need to be chlorinated to avoid biofouling, the Applicant submitted an updated 2016 Cefas report with an explanation of why it had been concluded that it would not be necessary to chlorinate the intake tunnels [REP6-031]. In addition the Applicant stated that the EA would not grant a discharge permit for the FRR if the water contained total residual oxidants (TROs) or chlorination by-products [ER 5.15.79]. Dr Henderson responded [REP7-247] and disagreed with the Applicant. The ExA notes [ER 5.15.84] this is a matter of professional judgment on which experts may respectably differ.
- 4.473 In answer to Dr Henderson's criticism that small shells and loose fouling materials could pass through screens and block condenser tubes, [REP6-002] the Applicant explained there would be filters downstream of the screens to remove such matter [ER 5.15.79]. Other issues raised by Dr Henderson were in relation to the Applicant's Evaluation of chlorine dosing options, Quantifying uncertainty in Entrapment Prediction for Sizewell C and lastly, criticisms of the draft Fish Impingement and Entrainment Monitoring Plan ("FIEMP") which he considered to be weak in relation to the sampling of small and long-thin fish [ER 5.15.98]. At DL10 [ER 5.15.99] the Applicant responded to these criticisms.
- 4.474 On sand gobies [ER 5.15.100], the Applicant considered the TASC estimate in their WR [REP2-481h] of additional sand goby losses of 802 million to be a substantial overestimate. The Applicant explains that the back propagation process [REP10-158] states that the calculation gives an extra 17.5% adult gobies lost, when a highly precautionary mortality rate of 100% is used. It goes on to report that at the Calver Cliffs Nuclear Power Plant, the actual survival rate for goby larvae was between 88-98%. Losses at all life stages at the Proposed Development is estimated at 156 million fish per annum before calculating Equivalent Adult Values ("EAV"). The Applicant drew attention to estimates of impingement in the ES Addendum [AS-238] with regards to estimates of pipefish losses [ER 5.15.101].

- 4.475 The Applicant acknowledged the potential for sampling inefficiencies of fish between 130 and 200 mm. It pointed to the estimates of impingement of 300 – 400 mm lamprey and 200 – 300 mm lamprey. The former estimate is 715 fish per annum and the latter estimate is 159 fish per annum. It concludes that this suggests the majority of adult lamprey would be effectively sampled [ER 5.15.102]. The Applicant stated that the numbers of juvenile lamprey, i.e. below 120 mm would be low because at that size they would still be in the rivers, not the sea. An EAV of 1, the maximum for semelparous fish, has been applied to all lamprey, even juveniles. It appeared to the ExA that as the number of impinged 200 – 300 mm lamprey is lower than the number of 300 – 400 mm lamprey and less than a quarter for 130 – 200 mm lamprey, the numbers would be even lower [ER 5.15.103].
- 4.476 The Applicant rejects the TASC calculation of glass eel abstraction as it is based on “*an unsubstantiated starting density which the available evidence does not support*”. Density in the Sizewell coastal waters is very low, and entrainment mimic unit studies have shown high survival rates during entrainment passage. The Applicant concludes that the potential for entrainment losses of glass eels leading to significant impacts is very low [AS-238] [ER 5.15.104].
- 4.477 The Applicant agreed to contribute to funding to install fish pass schemes at Snape Maltings on the Alde and Blythford Bridge on the Blyth. This is to be secured by the DoO and will benefit fish which migrate between the sea and rivers. Entrainment monitoring proposals are also provided in the draft FIEMP [ER 5.15.105].
- 4.478 On yellow eels, in response to TASC, the Applicant reported that the minimum yellow eel size recorded at Sizewell was 22.5 cm in length, which at a fitness ratio of 16 corresponds to a body height of 14 mm. They would therefore be impinged and there is no significant entrainment gap [ER 5.15.106]. On sandeels, the Applicant rejected the suggestion that assessment of entrapment effects has been underestimated, pointing to extensive sampling by different gear types on the water off Sizewell which they consider demonstrate that sandeels whilst present have low biomass. It cross refers to [APP-321] and to [REP6-002] [ER 5.15.107]. The Applicant stated that calculated numbers of annual impingement at Sizewell B and the Proposed Development without mitigation for all species are presented in ES Statement Addendum Appendix 2.17A [AS-238] [ER5.15.108].
- 4.479 The TASC critique at [REP8-284] was dealt with by the Applicant at [REP10-158]. TASC questioned the statement in the Qualifying Uncertainty report [REP6-028] about sustainable levels of mortality, that “*For marine fishes it is well established that populations can sustain annual losses of 10-20% or more of population size above natural mortality*” [ER 5.15.109]. The Applicant revised the relevant text with explanatory material in Revision 2 of the report [REP10-135] explaining that it applied to losses which are low. It pointed out that the statement was in relation to commercially exploited fishes. It pointed to further explanations of the threshold for effects in [AS-238] [ER 5.15.110]. The Applicant also stated there was strong evidence of no effects on population

stability of the elasmobranch species assessed, tope and thornback ray [ER 5.15.111].

- 4.480 The Applicant stood by its conclusions in SPP103 Rev 05 [REP6-016] with regards to Blackwater herring, that the assessment unit reflects International Council for Exploration of the Sea (“ICES”) advice [ER 5.15.112]. The Applicant also replied [REP10-158] to other points in Dr Henderson’s/TASC’s WR. In relation to the criticism that numbers of smelt and river lamprey had been underestimated, the Applicant stated that [REP10-135] this has been addressed and correction factors applied. With regards to sea lamprey, following adjustments to address the problem of the overnight sample baskets overflowing, the Applicant stated that the changes were too small to make a significant difference to the results or conclusions [ER 5.15.113].
- 4.481 In relation to the comparison of sea bass mortality with controls on fishing and landing of sea bass, the Applicant pointed to the Sea Bass Stock Assessment [REP8-131] (SPP118) which showed that the stocks assessed by ICES and the results of application the Cefas EAV correlated [ER 5.15.115].
- 4.482 The Applicant drew attention to other information provided in the revised Quantifying Uncertainty report in response the comments from the EA and IPs. This included, highlighting further analysis which had been carried out on the implications of the CIMP bulk overnight samples; the assumptions on the determination of uncertainty in the shad population estimates for the Scheldt and Elbe for which confidence intervals had been provided; and on quantification of the entrapment gap for sand gobies, herring and sprat [ER 5.15.115].
- 4.483 The Applicant concluded that the impingement rate remained below the threshold levels likely to pose a risk to the viability of the population [ER 5.15.116].
- 4.484 The ExA was unable to find responses from the Applicant to the following issues raised by TASC [ER 5.15.117]:
- Impingement and entrainment of ctenophores and jellyfish, and the resulting effect on dead and moribund biota;
  - Death of fish in the intake and outfall tunnels when the pumps are switched off during outages; and
  - Discharge of anoxic water on restart of the cooling system after an outage.
- 4.485 The EA did not raise any issue about death of fish in outfall tunnels nor discharge of anoxic water, nor did NE. Whilst the EA do make a complaint in relation to impingement estimates of “*fish and other biota*” in their WR, their SoCG with the Applicant records that there are no outstanding issues with the WFD. The discharge of marine biota will be a matter to be regulated under the WDA consent, which could, ultimately, be refused by the EA [ER 5.15.119]. With regards to EAVs [ER 5.15.120] at ISH7 the Applicant drew the ExA’s attention to the Hinkley Point C (“HPC”) appeal [ER 5.15.120] and to what it considered to be similarities between issues to be decided as part of this application and those heard as part of the appeal. At [REP6-024] Appendix F the Applicant submitted a note on EAV and Stock size. It informed the ExA that

the evidence to the HPC Inquiry, including the proofs of Dr Jennings on EAVs and the underlying principles of defining stock areas is analogous in both SZC and HPC. This technical note also addressed EAV, Spawning Production Foregone (“SPF”) and stock size, all of them constituents of the discussion on EAV [ER 5.15.122 et seq.]. The ExA refers at [ER 5.15.130] to Figure 5.15.01 – Figure 1 from [REP8-131] on trends in spawning stock biomass for sea bass estimated in the core ICES 2020 assessment and reruns of that assessment with SZC impingement incorporated and with FRR mitigation. The ExA sets out the Applicant’s position and the appropriateness of using the ICES stock areas on EAV and stock size [ER 5.15.131 et seq.].

- 4.486 The ExA notes that although the EA had referenced the HPC appeal in the Examination, the EA [REP7-131] explained that it did not consider the permit appeal at HPC would set a precedent as to what is the most appropriate EAV method in all circumstances as the underlying parameters are specific to individual power stations [ER 5.15.139].
- 4.487 NE also made comments on the EAV and Stock Size report which supports the EA responses to the Applicant’s case [ER 5.15.135 et seq.]. The Applicant’s response to the EA and NE is given at [REP8-119] and highlights key points to bring to the attention of the ExA [ER 5.15.147 et seq.].
- 4.488 At [ER 5.15.152] the ExA refers to the Applicant’s consideration of the appropriate stock area to use for comparison purposes. SPP103 Rev 05 [REP6-016] gives a summary of its position. The ExA points out that the Applicant had not responded directly to the EA’s comments at [REP7-133]. However, the Applicant does respond on smelt and on the Ore & Alde Transitional Fish Classification Index deterioration risk [ER 5.15.155]. At [ER 5.15.156] this is covered in detail and at [ER 5.15.157] the SoCG with the EA [REP10-094] confirms agreement that all matters in relation to the WFD have been satisfactorily dealt with. There remains some disagreement on the ecological impacts on main issues of EAV, stock size, AFD and fisheries. The ExA notes also that the EA commented [REP10-187] on the Applicant’s assessment of Sea Bass SPP118 [REP8-131].
- 4.489 The ExA presents the position at the end of the Examination at [ER 5.15.159]. The ExA [ER 5.15.160] states that the sea bass assessment is an important document as it tends to validate the Cefas EAV method. As the Applicant had not been able to reply to the DL10 submission from the EA the ExA suggests that the SoS may wish to give the Applicant the opportunity to respond.
- 4.490 The Secretary of State consulted on the DL10 submissions in his letter of 31 March 2022 which invited the Applicant to respond to the EA’s concerns. The Applicant responded stating that it does not agree with the EA’s position and in summary it considers its approach, which is consistent with that taken by the ICES, is acceptable. This position is endorsed by the MMO in its evidence [REP2-140]. The Applicant refers to a number of technical reports and consultation responses and it considers that the Secretary of State can confidently conclude that impingement mortality would not have a significant long-term effect on the dynamics of the sea bass population. Environmental variation and fishing are the overriding drivers of population dynamics. This



means that the size of the spawning population would increase and decrease at the same times and at an almost identical rate with the additional impingement.

- 4.491 The EA's response stated that at Deadlines 8 and 10 it provided detailed comments [REP8 -160 and REP10 -190] which highlighted concerns with the Draft Fish Impingement and Entrainment Monitoring Plan ("FIEMP"), as proposed. These concerns have not been fully addressed in the Deadline 10 Submission - 9.89 / 10.7 Draft Fish Impingement and Entrainment Monitoring Plan - Revision 3 (REP10 -138). The EA confirmed its remaining concerns relate to duration of monitoring, proposed methodologies used to consider impacts, and reaching agreement on how further mitigation and/or compensation for impacts to fish, might be decided. NE also provided comments on the DL 10 Draft Fish Impingement and Entrainment Monitoring Plan [REP10-138] in its response they advised that its comments had largely not been addressed and it was therefore unsatisfied with the revision of the monitoring plan. At [ER 5.15.171] the ExA states that where the FIEMP does not accord entirely with what the EA and NE sought, it is important to remember that a final FIEMP will need to be submitted for approval under condition 44 of the Deemed Marine Licence ("DML"). It must be in general accordance with the draft and there will be further opportunity for refinement of the plan and with the EA as a consultee.
- 4.492 The FIEMP is not a provision for monitoring over the lifetime of the Proposed Development [ER 5.15.172]. There will be three years of impingement monitoring and one year of entrapment monitoring, both capable of being extended in agreement with the Marine Technical Forum ("MTF"). It is not a provision to test whether the Applicant's EAV method works, nor what should be the appropriate stock area, but to compare actual SZC impingement data with those predicted in the ES [APP-317] to confirm the assessment, not to collect additional data or repeat the assessment. This is similar to the approach with entrainment sampling in the FIEMP. The draft FIEMP is open ended about what form other action might take, but examples are given of fish passes for species which migrate between sea and rivers and nursery habitat creation for some species. It is clear that for some species there are no means to offset significant adverse effects, but fishing restrictions for commercial species are typically not imposed until considerably greater levels of impact than those expected.
- 4.493 The Secretary of State has considered the Applicant, EA, and NE's responses and agrees with the ExA's final conclusion [ER 5.15.195] on the matter, in that although the draft FIEMP does not incorporate some of the points sought by the EA and NE in their submissions, there is opportunity for both parties to put their points again to the MMO to whom the final plan will be submitted for approval. The draft Order has also been amended to add NE as a named consultee as recommended by the ExA.
- 4.494 The ExA notes [ER 5.15.173 et seq.] that the Applicant is not proposing Acoustic Fish Deterrent ("AFD"). It submitted an AFD Report [REP5-123] which explained serious safety concerns about maintaining such a system. The ExA notes that whilst they were part of the scheme at HPC and required by the

Order and WDA permit there has been an appeal and public inquiry in relation to EDF's proposal to amend that requirement for safety reasons. The Applicant referred to similar concerns at SZC where the AFD would if installed need to be maintained 3km out to sea in about 12m of water [ER 5.15.173]. The Applicant states that the effects simply do not justify AFD. The ExA noted [ER 5.15.174] that the appeal decision had not been made before the end of the Examination.

- 4.495 In [REP7-127] the EA responded to the Applicant's AFD Report [REP5-122]. It pointed out that the assessment of turbidity level data in the report was taken in the period of highest turbidity which was not explained in the report. There is no evidence of turbidity at other times of the year. The marine ecology ES [APP-318] notes that, in the general inshore area, turbidity is considerably reduced from May to August and evaluation of safety and the practicality of maintenance at other times of the year should also be carried out according to the EA [ER 5.15.175]. The Applicant responded at [REP8-120]. Fish Guidance Systems Ltd ("FGS") made submissions to the Examination [REP2-274] and drew attention to EA best practice guidance. It considered the Applicant's case and submitted that ROVs could be developed to deal with maintenance, thus addressing the Applicant's safety concern [ER 5.15.177]. Dr Lambert at ISH7 made further representations (summarised at [REP5-200]) and [REP6-059]. In [REP7-186] he informed the ExA of a report that "ROVS have been developed and demonstrated to operate in high flow conditions, more than double that will be encountered at SZC" [ER 5.15.179]. The Applicant responded in [REP7-061] and on FGS' submissions at [REP6-059]. The Applicant disagreed that the designs for HPC would be suitable at SZC and raised concerns [ER 5.15.180].
- 4.496 The EA's case on AFD was set out in its WR [REP2-135] and further explained in [REP5-100]. It doubts that the low velocity side entry ("LVSE") reduction factor will be achieved so that impingement has been underestimated and impacts on species of relevance under EIA and WFD may be unacceptable [REP2-135] [ER 5.18.181]. The ExA notes [ER 5.15.182] the Applicant's case is that it will not deploy AFD because the effects on fish, as predicted using its EAV methodology, are not significant enough to justify it. The final SoCG with EA confirms this at MDS\_MEF 4. The resolution of the case for or against requiring AFD depends therefore on the resolution of the EAV issue.
- 4.497 The ExA notes [ER 5.15.183] that the conclusions on issues relating to cooling systems are subject to the SoS being satisfied with the results of consultation he decides to carry out.
- 4.498 At [ER 5.15.184] the ExA sets out the matters in the EA's SoCG which are not agreed. The ExA notes at [ER 5.15.185] in relation to entrapment monitoring, having carefully considered both written and oral submissions made by TASC and Dr Henderson and other IPs the issues have been summarised in some detail and in doing so they have similarly summarized and considered the Applicant's responses.
- 4.499 The ExA's detailed conclusions and advice on entrapment predictions appear at [ER 5.15.116 to 119]. It is their conclusion that the Applicant has satisfactorily

dealt with the difficulties caused by overflowing bulk impingement samples with the entrainment gap, and that the assessment of impingements, entrainment and entrapment is sound. The Secretary of State agrees with the ExA's conclusions on this matter.

- 4.500 At [5.15.187] the ExA notes that, in relation to EAV and to the stock area assessments, the matter raises similar issues to those considered at the HPC Appeal. Both the Applicant and the EA take the view that it is relevant. The Applicant is of the view that the Examination process is not able to subject the dispute to the same level of scrutiny as the HPC Inquiry. The MMO is content with the Applicant's approach and raises no objection on this matter.
- 4.501 At [ER 5.15.188] the ExA states that in their view, neither the Applicant nor the EA would have given way on the EAV, stock size and AFD issues pending the outcome of the HPC appeal. It considers the essential issue is whether the Cefas EAV method adopted by the Applicant or the EA's SPF method is appropriate. The EA's concern was that the Cefas EAV method does not take repeat spawning into account and underestimates the effect of the Proposed Development on some fish species, and the SPF method should be adopted. The Applicant maintained that estimates of the annual EAV numbers as a proportion of the spawning population size can be used to assess whether there is a risk to the sustainability of the population using pre-defined thresholds. The ExA notes [ER 5.15.190] the Applicant tested this with its European Sea Bass Assessment [REP8-131]. At [5.15.190] the ExA state that the Applicant provides a convincing answer to the EA's concerns. If the Cefas method gives a warning of risk which can then be further tested and the results of the test then demonstrate that in fact there is no risk, there is no need to add the SPF factor to the initial risk assessment. This was criticised by the EA at [REP10-187]. For reasons given at [ER 5.15.159] the ExA states it does not find those criticisms persuasive.
- 4.502 At [ER 5.15.192 et seq.] the ExA concludes on the scale of assessment and stock area. The ExA notes that the Applicant maintained that the primary assessment should be against the ICES stock areas, it represents an international consensus on the best interpretation of current evidence [REP10-157]. The ExA accepts this argument and gives it considerable weight. The EA suggest more precautionary stock units but have not pointed to suitable alternatives. The Applicant at [REP10-157] observes that the EA may be suggesting the Swansea Bay Tidal Lagoon but, for the reasons reported by the ExA, the Applicant did not consider it to be suitable [ER 5.15.192]. The EA were also concerned that smaller units should be used to assess the local position in Greater Sizewell Bay [REP2-135]. They list eleven species of WFD concern, three of which are also of concern for EIA and one which is an EIA concern only. The ExA consider [ER 5.15.193] that the EA's WFD concerns are allayed and consider there is no need to consider those species listed in paragraph 8.33 of their WR [REP2-135]. It also considers the Applicant's report SPP103 Rev 5 [REP6-016]. At [ER 5.15.195] it considers that the draft FIEMP is satisfactory. The ExA concludes at [ER 5.15.196] it is therefore satisfied that the scale of assessment and the stock areas are appropriate. The Secretary of State has considered the ExA's conclusions including on the FIEMP above, and agrees with the ExA's conclusions on this matter.

4.503 The ExA notes [ER 5.15.197] that whilst the FGS draw their attention to the EA's best practice to require AFD there is some discretion on how that is applied. It notes the views of the ROV manufacturers and consider the more formal evidence of the Applicant's AFD report is more persuasive in their view. At [ER 5.15.198] the EA's case on AFD is referred to. It notes a reservation about efficacy of LVSE in one of the Applicant's earlier reports but that the models were run on the assumption of no greater benefit than at SZB and subject to the EA's limits used at the HPC Inquiry.

#### *ExA's Conclusions on Cooling Systems*

4.504 The ExA states that based on the evidence before them, it is satisfied that the entrapment monitoring issues have been satisfactorily addressed. The Cefas EAV method has been tested by the sea bass assessment and found to work for assessing effects and whether population sustainability thresholds are in danger of being crossed. As noted above the ExA is satisfied that the scale of assessment and the stock areas are appropriate. The ExA also states that local effects have been satisfactorily addressed and there is no justification for requiring an acoustic fish deterrent. The FIEMP is satisfactory in their view and the Applicant's assessment of no likely significant adverse effects is therefore justified [ER 5.15.199]. The ExA notes that the cooling water system and discharge of fish and marine biota from the FRR system will require a WDA permit from the EA which they state will be subject to a cumulative assessment of all the permits. It notes that at ISH15 EA stated that there was nothing to say that it would not grant the permits but it could not guarantee that it would. The ExA notes the matters not agreed in the SoCG [REP10-094] and that it finds in the Applicant's favour. The result is the same for the issues in NE's SoCG [REP10-097] so far as the subject is concerned. The ExA agrees with the Applicant there are no likely significant adverse effects on fish stocks [ER 5.15.200].

4.505 At [ER 5.15.201] the ExA states that having taken into account all of the submissions made, it has found that the assessment of impingement, entrainment and entrapment is sound. On the use of the Cefas EAV method, the ExA has found it to be appropriate and this is supported by the Applicant's response to the EA's concerns [ER 5.15.201]. The ExA is also satisfied that the scale of assessment and the stock areas used by the Applicant are appropriate together with the draft FIEMP submitted at the end of the Examination. The ExA concludes there is no need for AFD. The ExA concludes [ER 5.15.201] there are no matters relating to this issue which would weigh for or against the order and ascribes no weight to impacts of cooling systems on marine ecology [ER 5.15.315]. The Secretary of State agrees with the ExA's conclusions on these matters.

#### *Fisheries*

4.506 The ExA notes [ER 5.15.203] the Applicant's case and found there would be no significant effect after the incorporation of primary, tertiary and if necessary secondary mitigation. This was the position following all changes to the application [REP7-286]. The ExA [ER 5.15.204] considers that the major issue is the availability of fish stocks. The ExA draws attention to the submissions by

the Eastern Inshore fisheries and Conservation Authority (EIFCA) which was addressed at ISH7 and submitted a summary at [REP5-147]. Further representations were made in relation to Change 19 [REP10-185] which the ExA have taken into account.

- 4.507 The ExA has considered the position of NE, the EA, MMO and other IPs in detail on cooling systems which is considered to be the major issue in relation to fisheries. The ExA notes that access and other issues raised by EIFCA were in their view adequately addressed by the Applicant in its ES. In relation to other points the FIEMP makes provision for further (though not likely to be permanent) monitoring and that the models were run without the benefit of the LVSE and subject to the EA's limits used at the HPC Inquiry. They have concluded there would be no likely significant adverse effects on fish stocks and it follows that there is no likely significant effect on fisheries. The ExA notes this is the gist of the EIFCA's view as well. Accordingly, it considers there are no matters relating to that issue which would weigh for or against the making of the Order and it ascribes no weight to impacts on fisheries [ER 5.15.316]. The Secretary of State agrees with the ExA's conclusion on these matters.

*Matters of Disagreement Between Natural England and the Applicant*

- 4.508 At [ER 5.15.205 et seq.] the ExA refer to the matters on which NE and the Applicant were unable to reach agreement on marine ecology. The final SoCG between them [REP10-097] sets this out. The HRA Chapter covers matters not agreed in the context of sites within the National Site Network.
- 4.509 The ExA [ER 5.15.243] concludes that having considered the matters carefully and given due weight to NE's expertise and role it agrees with their position on IN3 and IN13 which addresses the water strategy and issues identified in Change 19, specifically with regards to water use impacts for potable and non-potable freshwater supply. This is considered in the relevant chapter of the ExA report and is in the flood risk, groundwater, surface water section of this letter.
- 4.510 On the other disagreements it does not consider that NE has made out its case and it gives very little weight to their disagreement with the Applicant. The ExA give no weight against making the order to the disagreements between NE and the Applicant other than in relation to IN3/13 [ER 5.15.322]. With consideration of the responses to his letters with regard to IN47 and the FEIMP which relates to IN41, the Secretary of State agrees with the ExA's assessment on these matters.

*Chemical, Thermal and Sediment Plumes*

- 4.511 The ExA [ER 5.15.244 et seq.] set out the concerns raised by IPs including NE and RSPB/SWT in relation to the effects of chemical and thermal plumes from the cooling water system and other discharges, such as the CDO. The main issue is the effect on prey species for birds. These are all issues on which NE and the Applicant disagree to some extent and are referred in the SoCG [REP10-097]. The ExA notes the effect of sediment plumes is not a matter in the NE SoCG nor their representations. The ExA set out at [ER 5.15.245 et seq.] the concerns of the parties. At [ER 5.15.255 et seq.] the ExA notes the concerns expressed by NE and RSPB/SWT over chemical and thermal plumes

and their interaction. It notes that NE and the Applicant recognise that the discharges from the cooling water system and the CDO will be regulated by the WDA permit and that NE will be consulted on that generally and for HRA purposes. The ExA notes [ER 5.15.255] that whilst NE had not by the end of the Examination been consulted on those and was unable to give advice, the ExA reports on the basis of evidence before it. It considers that the Applicant advanced considerable evidence and it was assessed as part of the ES that concluded that there would be no likely significant adverse effects. The Secretary of State notes that on 4 July 2022 the EA launched its consultation on its permitting HRA which included a WFD assessment. The EA's proposed decision is that it should grant the application and issue a permit for the proposed operational WDAs. This is also considered in the Marine Water Quality section of this decision letter.

- 4.512 The ExA states it sees little evidence of bioaccumulation risks and no evidence of toxic effects for seabirds. Nor does it consider there is any likely significant adverse effect from discharges entering the Minsmere Sluice. It notes that the bromoform plume for SZB is approximately six times greater than the predicted plume for SZC. The ExA [ER 5.15.256] therefore accepts the Applicant's conclusion of no likely significant environmental effects on this subject. The ExA notes [ER 5.15.257] that this matter has also been extensively considered in the HRA section of their report (Chapter 6). The Secretary of State has therefore considered this further in the relevant section of this letter.
- 4.513 The ExA [ER 5.15.258] notes RSPB/SWT's concerns in their WR [REP2-506] and that the Applicant does not appear to have responded.. But taking into account its own conclusions in Chapter 6 of its Report on HRA matters, it concludes there is no likely significant adverse effect on feeding seabirds from sediment plumes, alone or in combination.
- 4.514 The ExA [ER 5.15.259] refer to EN-1 policies 5.3.10-11 as relevant. SSSIs are, under these policies, given a high degree of protection, and a development consent which (alone or in combination) would have adverse effects on them should not normally be granted. An exception for likely adverse effects on the site's notified features should only be made where the benefits, including need, clearly outweigh the impacts on the national network of SSSIs. The ExA concludes that there would be no adverse effects on the Alde-Ore Estuary SSSI [ER 5.15.324]. The Secretary of State agrees with the ExA's conclusions on this matter.

#### *Change 19 – Desalination Plant*

- 4.515 At [ER 5.15.260 et seq.] the ExA set out the parties' cases and at [ER 5.15.278] a summary of concerns raised is provided. The ExA [ER 5.15.279 et seq.] also set out the Applicant's response and notes that in [REP10-052] the Applicant submitted a revision of the appendix to its Fourth ES addendum entitled Desalination Plant Construction Discharge H1 Type Assessment. The ExA's assessment of the report and where the Applicant has addressed concerns raised is set out at [ER 5.15.280 et seq.]
- 4.516 The ExA turns to the points made by NE in its consultation response of 25 August 2021 included in the Applicant's [REP8-045]. It notes NE's briefing note

[REP8-298i] which indicates that matters of concern can be addressed in other permits. It notes that concerns that the brine discharge may mask freshwater signals which are relevant to eels is not in its SoCG [REP10-107]. The ExA notes that given the response in [REP10-052] there is no real issue of masking [ER 5.15.297] and that the EA covenant addresses any concerns under the Eels Regulations.

- 4.517 The ExA [ER 5.15.298] notes it is prepared to accept the Applicant's conclusion of no likely significant environmental effects on this issue. This matter has also been extensively considered in the HRA section of its report where it concludes on the basis of the material currently available to it and with the mitigation measures secured and controls through the WDA permit, it is possible to conclude no AEoI from the Proposed Development alone or in-combination with other plans or projects. The Secretary of State has taken into account submissions received in relation to this matter in response to his letter of 31 March 2022. The Secretary of State's conclusions regarding the potential impacts of the desalination plant on sites within the National Site Network are provided in Section 5 of this letter and in the Secretary of State's HRA.

#### *Eels*

- 4.518 The ExA asked the Applicant and the EA questions on eel screens which must be used on structures including cooling water systems such as those at the Proposed Development, in ExQ1 Ma.1.0 and sought clarification at ISH10. The EA accepts that eel screens are not feasible in this case [REP7-131]. The Applicant proposed additional mitigation to help offset impacts. The EA were also seeking entrainment monitoring. The ExA notes that by the close of the Examination this had been resolved. The SoCG [REP10-094] records that, whilst the scale and impact of entrainment had not been quantified with certainty, additional mitigation to offset impacts to eels by improving eel and fish passage in the Alde & Ore and River Blyth has been agreed and was secured by the DML in the Order. Notwithstanding that this does not include entrainment monitoring, all matters relating to eels in the SoCG were agreed [ER 5.15.300]. The ExA concludes [ER 5.15.300 et seq.] that given the agreement of the EA, it gives little weight to the lack of eel monitoring. The ExA notes there is no weight to be given, for or against making the Order [ER 5.15.326].

#### *Sabellaria Spinulosa Reef ("SSR")*

- 4.519 At [ER 5.15.302 et seq.] the ExA set out the parties' cases in respect of the presence of SSR on the coralline crag of Greater Sizewell Bay near or at the place where the cooling water intake heads for the unit 1 reactor are proposed. The Applicant at [REP2-100] confirmed it is the habitat, not the SSR itself that is protected. Following investigations and surveys the ExA notes that the Applicant state that less than 6% of the SSR would be affected in the worst case, based on the summer 2019 distribution of SSR. All effects were not significant, adverse, except for one not significant, beneficial effect. The outcome was the recommendation in [APP-317], the marine ecology chapter of the ES, including a monitoring and mitigation plan which would include pre-construction survey work. There is a draft Sabellaria Reef Management and

Monitoring Plan (“SRMMP”) [REP10-141] which will be a level 1 control document secured by condition 39 of the DML in the draft Order. Under that condition, the construction of the headworks for the cooling water system for Unit 1 (Work No 2B) must not be commenced until a SRMMP has been submitted to and approved by the MMO. The SRMMP must be in general accordance with the draft SRMMP, and the condition specifies a number of matters the submitted plan must address. The draft is a certified document. The ExA [ER 5.15.307] notes that the MMO commented on the draft plan at [REP10-195].

- 4.520 The ExA concludes [ER 5.15.308] that the final draft plan submitted at DL10 [REP10-140] does include reference to adopting the least environmentally damaging option where practicable. Given that the plan is a draft and the MMO is the approving body, this is in their view acceptable. NE made comments in [REP8-298o]. The ExA [ER 5.15.309] do not read their representations to be stating that the plan should not be accepted, but rather that it could be improved. As it is a draft plan and the final plan is to be submitted for approval, it considers that those improvements can be considered at that stage. The ExA notes [ER 5.15.310] that the approval of the SRMMP must be after consultation with NE. The ExA suggested appropriate wording to the recommended Order and this has been included in condition 39 of the DML.
- 4.521 In conclusion the ExA [ER 5.15.311 et seq.] consider that the proposals for SSR are in compliance with policies 5.3.3, 5.3.4 and 5.3.7 of NPS 6-1. It accepts the findings of the ES that there are no likely significant effects on the *Sabellaria spinulosa*.

#### *Other matters*

- 4.522 The ExA has considered the Applicant’s ES relating to marine ecology, addendums and supplementary material together with relevant and representations including written and oral submissions. Taking all that evidence into account the ExA is content that the environmental assessment of the marine ecology aspects of the Proposed Development and with the conclusions of that assessment. The ExA notes [ER 5.15.328] there are no matters which cause it to come to a different conclusion from the Applicant’s assessment of cumulative, project wide, inter-relationship or other cumulative effects.

#### *Overall Conclusions*

- 4.523 The ExA notes they are content that the marine ecology aspects of the Proposed Development are consistent with the Marine Policy Statement 2011. The MMO are also content that the East Marine Plan checklist captures all policies from the East Inshore Marine Plan applicable to the application and is content with the conclusions of the assessment. The ExA has reviewed the plan and checklist for marine ecology issues and consider the Proposed Development is consistent with it [ER 5.15.329].
- 4.524 National policy considerations on biodiversity and geological conservation are set out at [ER 5.15.330 et seq.]. The Nuclear Sites Appraisal of Sustainability draws attention to the need for cooling water abstraction to incorporate fish protection measures. The ExA are satisfied that the Applicant has addressed



this by incorporating LVSE intakes and the fish recovery and return system, concluding that an acoustic fish deterrent system is not justified [ER 5.15.332].

- 4.525 Biodiversity and conservation of species and habitats are considered in the relevant section of this decision letter and in the Water Quality section. The Applicant's proposal includes primary and tertiary mitigation and, where necessary, has used secondary mitigation to address residual effects. It is considered there are no likely significant adverse residual effects in relation to marine ecology and the ExA are satisfied that the relevant mitigation has been secured [ER 5.15.334]. The ExA therefore concludes that in respect of marine ecology issues there are no matters which would weigh against making the Order [ER 5.15.335].
- 4.526 The Secretary of State has taken into account submissions received in response to his letter of 31 May 2022. The Secretary of State agrees with the ExA's conclusions on this matter.

### Marine Water Quality

- 4.527 The relevant policy considerations for marine water quality include those contained with NPS EN-1, NPS EN-6, the UK Marine Policy Statement ("MPS"), the East Inshore and East Offshore Marine Plans, the Suffolk Coastal District Local Plan (Policy SCLP10.3), and the Suffolk Flood Risk Management Strategy 2016. Compliance with the Water Framework Directive ("WFD") is also relevant to marine water quality [ER 5.16.1].
- 4.528 The ESC and SCC Joint LIR mentions the Sizewell C Marine Technical Forum ("MTF"), which has a primary purpose of developing and overseeing the implementation of a plan for monitoring the effects of the proposal on coastal processes and to specify and deliver appropriate mitigation actions [ER 5.16.14], and the DoO provides for its establishment, purpose and operation.
- 4.529 ES Volume 2, Chapter 21 Marine Water Quality and Sediments contains an assessment of effects on marine water quality. The ExA notes [ER 5.16.16] that the Applicant submitted an Addendum to its WFD Compliance Assessment ("WFDCA") to account for Changes 1-15 and their potential implications for the WCFDA, and a second addendum to the WFDCA was submitted relating to the temporary desalination plant.
- 4.530 The Applicant submitted a Mitigation Route Map, updated during the Examination, setting out the predicted adverse effects and the mitigation commitment, which stage it applies to and where it is secured. Primary and tertiary mitigation measures would be incorporated within the design of the Proposed Development [ER 5.16.20] and the Applicant argued that no further mitigation than these primary and tertiary measures is required as no significant adverse effects are identified. The Applicant did not change its position regarding no significant adverse effects when Change Request 19 proposing a temporary desalination plant was accepted into the Examination, and there were no changes to the conclusions of the assessment presented within ES Chapter 21 (as amended by ES Addendum Chapter 2, Section 2.16) [ER 5.16.22].

- 4.531 The ExA considered the issue of chemical, sediment and thermal plumes and biofouling [ER 5.16.24 et seq.] during the Examination, and noted that [ER 5.16.34] the construction permitting strategy is under discussion with the EA. The ExA considered [ER 5.16.35] that as the position on environmental permits remained unknown at the end of the Examination, the Secretary of State may wish to seek further input from the EA on this matter. The Secretary of State agreed and requested information from the EA on this matter in his letter of 18 March 2022. The EA responded that it is preparing the proposed decision document on environmental permit applications for WDA, combustion activity, and radioactive substances activity, and that a HRA has been undertaken for each permit alone, and in combination, and these have been reviewed by NE.
- 4.532 The issue of bentonite breakouts/frack-outs was also considered by the ExA [ER 5.16.36 et seq.]. The ExA notes that Natural England raised concerns regarding bentonite breakouts or frack-outs that have occurred on other projects and the potential for adverse effects on a number of European sites. The Applicant argued that if a frack-out did occur, increased sediment would be dispersed by the tide with no possibility of adverse effects on integrity of any European site. The Applicant updated the CoCP at Deadline 10, but the ExA notes that the timing of these updates means that it is not clear if these resolved NE's concerns. Please see the HRA published alongside this letter for further detail on this point.
- 4.533 The ExA considered the effects of the temporary desalination plant on marine water quality [ER 5.16.38 et seq.] In the ES, the Applicant assessed the anticipated effects to be short-lived and not significant. The ExA notes [ER 5.16.41] that IPs cited concerns about adverse effects on water quality resulting from increased salinity from the desalination plant discharge. The ExA held Issue Specific Hearing 15 to consider the desalination plant further. The RSPB/SWT stated that they would be concerned if the use of the desalination plant continued beyond construction into commissioning and operational phases, and queried whether the discharges would add to total marine adverse effects and affect habitat quality and prey for birds from European sites. The Applicant confirmed that the temporary desalination plant would only be required in connection with the construction phase and that controls are proposed to ensure that its use ceases before cold flush testing commences and that all plant would be removed by the end of construction.
- 4.534 On 18 March 2022, the Secretary of State issued a letter to the Applicant requesting further information regarding the temporary desalination plant, and asked if the plant could be made permanent should the permanent mains water supply solution be unconfirmed. The Secretary of State's consideration of this matter, including the Applicant's response and related comments from IPs, can be found at in the Water Supply subsection of this letter.
- 4.535 The Applicant undertook further modelling of the desalination discharge, with the revising modelling providing updated estimated plume extents, which is detailed in an updated version of the Sizewell C Desalination Plant Construction Discharge Assessment H1 type assessment (the British Energy Estuarine and Marine Studies ("BEEMs") Technical Report TR552) ("the BEEMs Technical Report") [ER 5.16.50]. The BEEMs Technical Report concluded that the

potential interaction of the Combined Drainage Outfall (“CDO”) discharge would have negligible influence on the areas affected by the desalination plant discharge and does not change the overall H1 Assessment. The ExA highlighted [ER 5.16.52] that the Secretary of State may wish to satisfy himself whether the MMO is content with the conclusions of the updated BEEMs Technical Report. The Secretary of State therefore asked the MMO to provide their views in his letter of 18 March 2022. The MMO advised in its response of 8 April 2022 that it had previously commented on report TR552 in relation to impacts on marine ecology and fisheries at Deadline 10, and that these comments remain. The MMO also noted that the proposed discharge activity falls within the remit of the EA and their relevant permitting regime, and defers to the EA and their permitting process and assessments on this matter.

- 4.536 The Applicant also answered this question in their response to the Secretary of State’s letter of 18 March 2022, advising that it considers the CORMIX modelling used in the report is well supported. The MMO stated ‘further information should be provided to validate the CORMIX modelling’ but the Applicant is not clear what information is required and the MMO has provided no further comments on this. The Applicant noted the desalination discharge will be subject to a WDA permit determined by the EA and expects any detailed comments from the EA regarding the appropriateness of the modelling will be shared during determination of the permit. The MMO’s letter of 20 May 2022 reiterated that further information should be provided to validate the CORMIX modelling. The EA’s response to the letter of 18 March 2022 stated it will fully consider all assessments provided at the time of any environmental permit application. The Secretary of State is satisfied the EA’s WDA permit process will fully assess the environmental impacts and therefore considers this matter has been satisfactorily resolved.
- 4.537 The ExA is satisfied [ER 5.16.53] the necessary mitigation and controls are in place to enable the MMO to consider appropriate details when discharging conditions post-consent but noted there is uncertainty regarding the EA’s conclusions on WFD compliance. The Secretary of State asked the EA for further information regarding WFD compliance. The EA responded that it is preparing the proposed decision document on environmental permit applications for WDA, combustion activity, and radioactive substances activity, that a HRA has been undertaken for each permit alone and in combination, and these will be reviewed by NE. With regard to the WFD assessment, the EA notes that the Applicant did not provide an in-combination assessment in support of the application for this permit, as this impact is covered by the WFD assessment submitted in support of the Application. The EA’s response notes that all environmental permit decisions are in draft form, and will be publicly consulted on during June 2022. To help with the Secretary of State’s assessment of WFD Compliance, the EA appended a final draft of the WFD compliance assessment for the WDA environmental permit to its response. The EA provided no further response to the Secretary of State’s invitation for comments on 25 April 2022. The Secretary of State notes that on 4 July 2022 the EA launched its consultation on its permitting HRA which included a WFD assessment. The EA’s proposed decision is that it should grant the application and issue a permit for the proposed operational WDAs.

- 4.538 The ExA is satisfied [ER 5.16.56] with the Applicant's cumulative effects assessment for marine water quality when not in connection with nationally or internationally designated sites and species. The ExA's findings regarding designated sites are considered in the biodiversity and ecology (terrestrial) and marine ecology sections and the HRA.
- 4.539 The ExA sets out [ER 5.16.57] its consideration of the wording of relevant conditions and Requirements in the Order and DML. The Secretary of State agrees with the ExA's recommendations on conditions 8(4), 15(3), and 25. With regard to the inclusion of requirements for the removal of the temporary desalination plant, the ExA is content with the Applicant's explanation that its removal would be secured through the Construction Method Statement and DML articles 4(m), 4(n) and condition 46e.
- 4.540 The Applicant concludes there would be no transboundary effects expected during construction or operation of the Proposed Development, with consideration given to suspended sediment from dredging and drilling, and thermal and chemical plumes. The ExA notes [ER 5.16.70] that matters raised by others regarding transboundary issues related to the effect of impingement predictions of cooling systems, and further consideration of this is detailed in Section 5.15<sup>12</sup> and Chapter 6 of the ExA Report.
- 4.541 The ExA is content [ER 5.16.71] that the Applicant has engaged satisfactorily with the MMO and notes that, other than the suggestion to seek clarity from the MMO on the updated BEEMs Technical Report, the ExA is satisfied that the MMO is content that potential releases can be adequately controlled by the conditions set out in the DML in the recommended Order.
- 4.542 The ExA is satisfied [ER 5.16.74] with the mitigation measures set out by the Applicant, the ES assessment [ER 5.16.75], the Applicant's consideration of cumulative effects (except where related to nationally and internationally designated sites) [ER 5.16.76], and that the MTF is satisfactorily secured in the DoO. Cumulative effects where related to nationally and internationally designated sites are considered in the HRA published alongside this letter. The ExA is satisfied [ER 5.16.78] that, other than the point on the BEEMs Technical Report, and the suggestion for the Secretary of State to seek further information from the EA on environmental permitting and WFD compliance, the relevant tests set out in NPS EN-1 and NPS EN-6 are met.
- 4.543 The Secretary of State agrees with the ExA's conclusions on this matter, and having received further information from the MMO in respect of the BEEMs Technical Report, and the EA in respect of WFD compliance and environmental permitting, the Secretary of State is satisfied that the matters highlighted by the ExA for further consideration have been satisfactorily addressed.

---

<sup>12</sup> On 28 June 2022, the Planning Inspectorate confirmed that the reference to Section 5.9 at paragraph 5.16.70 of the Examining Authority's Report was a typographical error and that instead, the reference should have been to Section 5.15.

## Marine Navigation

- 4.544 The ExA notes [ER 5.17 et seq.] the relevant policy considerations including EN-1 paragraph 5.4.8 which states it is important that new energy infrastructure does not significantly impede or compromise the safe and effective use of any defence assets. It notes there are no policies relevant to marine navigation in EN-6. Other legislative and policy considerations are set out at [ER 5.17.4 et seq.] including the UK MPS; East Inshore and East Offshore Marine Plans; the Infrastructure Planning (Decisions) Regulations 2010 in respect of Deemed Marine License (DMLs). International Maritime safety is governed by the IMO Safety of Life At Sea Convention Chapter V (Safety of Navigation) 1974 (as amended). Other relevant legislative and policy considerations include the Marine and Coastal Access Act 2009.
- 4.545 The Applicant's case is set out at [ER 5.17.15 et seq.]. ES, Volume 2, Chapter 21 contains an assessment of effects on marine navigation. This was accompanied by appendices which provided a Navigational Risk Assessment ("NRA") and figures. An updated appendix was submitted in the Examination which included the Navigation Collision Risk Assessment associated with the additional landing facility. An updated Mitigation Route Map was also submitted at DL10. At [ER 5.17.17 et seq.] primary and tertiary mitigation measures are listed. The ExA notes [ER 5.17.21] on the basis of the NRA, the requirement for additional mitigation was considered and the Applicant found that no significant adverse effects would remain.
- 4.546 At [ER 5.17.22] the ExA states that almost all matters were agreed in early SoCG and during the Examination, except for the MMO's concerns regarding certain aspects of the Order in connection with the proposed harbour order.
- 4.547 The ExA notes the Applicant's position on the creation of a Competent Harbour Authority ("CHA") for the construction stage which would manage temporary safety zones around sensitive areas of construction to manage navigation safely [ER 5.17.23], including the control of deliveries including AILs, under the control of a harbour master, thereby requiring appropriate risk assessment. The Beach Landing Facility ("BLF") would enable AILs etc to be brought directly to the MDS by sea, reducing the need to transport material by road. The draft Order Explanatory Memorandum sets out how the Order establishes the undertaker as the harbour authority. The ExA notes [ER 5.17.26] that all matters were agreed with the Marine and Coastguard Agency ("MCA") with evidence that meetings took place to discuss the proposed Harbour Order.
- 4.548 At [ER 5.17.29 et seq.] the ExA notes that at part 6 of the Order the Applicant is seeking various harbour powers, including to establish a harbour authority. The Secretary of State notes the ExA's outstanding concerns regarding the unresolved issues set out in [ER 5.17.31 et seq.] The Secretary of State notes the ExA considers that if the undertaker is to be a Statutory Harbour Authority of the harbour, it is reasonable to confirm that it would have the pilotage powers of such an authority, including that of a Competent Harbour Authority ("CHA"), under the powers of the Secretary of State in making an Order under PA2008 s120(5)(a) and Schedule 5, para 31 and 32 which cover "the creation of a harbour authority" and "changing the powers and duties of a harbour authority".

For these reasons the ExA is satisfied with the draft Order as it stands in this regard [ER 5.17.34] but suggests that the Secretary of State may wish to confirm this with the Department for Transport (“DfT”).

- 4.549 On 31 March 2022, the Secretary of State issued a letter requesting confirmation if the DfT and the MCA agree with the Applicant’s view expressed in the Final Development Consent Order Explanatory Memorandum [REP 10-013] that Article 53 of the draft Order can be used to make the undertaker a CHA for the purposes of the Pilotage Act 1987. The DfT responded that in their view section 145 of the PA2008 provides for the creation of a harbour authority within an Order where the conditions in sections 145(1)(a) and 145(1)(b) are met and is therefore satisfied with the proposed establishment of a CHA, agreeing with the Applicant that Article 53 of the draft Order can be used to make the undertaker a CHA for the purposes of the Pilotage Act 1987. DfT is satisfied with the justification for a CHA for this site above Statutory Harbour Authority (SHA) status. DfT states that, as raised by the MCA, the contents of the draft Order should mirror the framework of a harbour empowerment order to ensure that the Port Marine Safety Code and the Pilotage Act 1987 are fully applicable, and all the relevant safety requirements are ensured. The MCA in their response stated that they defer to the DfT on this matter. The Secretary of State has considered the DfT’s position, and that the MCA is content. For the reasons given the Secretary of State agrees with the ExA’s conclusions on this matter.
- 4.550 The ExA refer [ER 5.17.35 et seq.] to the articles to be included in the Order that the Applicant sought to be removed after inclusion of Condition 35 in the DML. The MMO were not content with their removal, which they reiterated in response to the Secretary of State’s letter dated 31 March 2022. The ExA considered the MMO’s position and the role of the MCA and DfT at [ER 5.17.38 et seq.]. In its conclusion the ExA state that in the absence of any specific affirmation from the Applicant that the MCA is content, it has reintroduced the articles back into the Order.
- 4.551 In respect of breaches in terms of the Order the ExA consider [ER 5.17.43] that there is no need for an additional offence and penalty to be imposed as breaches in terms of the Order would be an offence under PA2008 s.161.
- 4.552 The ExA notes [ER 5.17.44 et seq.] the considerations of definitions of the Secretary of State and states at [ER 5.17.46] it is content with the amendment to the Order and explanation provided by the Applicant because the statutory definition of Secretary of State under the Interpretation Act 1978 is wide enough to cover both DfT and the Department for Business, Energy and Industrial Strategy. Further the Secretary of State notes the ExA is content [ER 5.17.49] with the Applicant’s approach and inclusion of a right for the undertaker to charge. No amendment has therefore been made to the Order in this regard.
- 4.553 The Secretary of State noted the ExA’s position regarding the unresolved issue set out in [ER 5.17.50] concerning a Justice Impact Test for new offences created in the Order. A Justice Impact Test was submitted to the Ministry of Justice on 31 May 2022 and the process was concluded on 1 July 2022.

- 4.554 At [ER 5.17.51] the ExA considers the use of emergency powers and confirms it is content with the Applicant's final drafting of the Order and no amendment has therefore been made [ER 5.17.52]. Other amendments are set out in [ER 5.17.53 et seq.] with regards to the duration of powers under Part 6. At [ER 5.17.59] the ExA considers that it is clear from the application that the Applicant intends for the Harbour Order to be in place throughout the construction period but would be surrendered at its end. It notes that even though the BLF would remain in position throughout the operation period, deliveries would be infrequent and would not require the Harbour Authority. The ExA states it is content with the final wording and no amendment is therefore made to the Order in this regard [ER 5.17.59]. In the ExA's opinion with the amendments, none of the matters raised weigh for or against the Order being made.
- 4.555 The ExA notes [ER 5.17.62] no IPs raised concerns about adverse cumulative effects and it is satisfied that the Applicant's assessment has considered relevant marine aspects of appropriate developments. It is further content with the Applicant's finding on transboundary matters relating to marine navigation.
- 4.556 Overall, the ExA [ER 5.17.64 et seq.] is satisfied that the Applicant engaged with the relevant bodies, including the MCA and undertook an NRA and identified navigational risk and potential receptors through the EIA process. It is further satisfied that the Applicant has sought to minimise adverse effects on shipping activity and navigational safety and that the mitigation measures would ensure compliance with international maritime law (UK MPS) [ER 5.17.65]. For the reasons given at [ER 5.17.66] the ExA considers there is nothing that would prevent the creation of the Harbour Order and is content that the Applicant has had regard to preventing interference with legitimate uses of the sea (Marine and Coastal Access Act, 2009) [ER 5.17.67]. The Secretary of State agrees with the ExA's conclusions on this matter.

#### Noise and Vibration

- 4.557 Relevant policy considerations include NPS EN-1 which recognises emissions and discharges from a proposed development whilst they may be subject to separate legislation or regulation, can affect quality of life and health, and enjoyment of areas of value [ER 5.18.1 et seq.]. At paragraph 5.11.3 NPS EN-1 recognises a series of factors determining the likely noise impacts. NPS EN-6 indicates the operation of a nuclear power station would be unlikely to be associated with significant noise or vibration impacts, but there may be transport and construction impacts [ER 5.18.6]. The ExA has considered the Noise Statement for England ("NPSE") which explains that noise management is complex, its aims are set out at [ER 5.18.7]. Paragraphs 174 and 185 of the NPPF, and the Planning Practice Guidance on Noise are also relevant [ER 5.18.13 et seq.] The relevant Suffolk Coastal Local Plan policies are: SCLP10.3 stating proposals will be expected to protect the quality of the environment and minimise, and, where possible reduce, all forms of pollution and contamination including noise pollution; and SCLP11.2, dealing with residential amenity, stating the Council will have regard to noise and disturbance expecting developments will not cause an unacceptable loss of amenity for existing and future occupiers in the vicinity.

- 4.558 Chapter 11 of the ES assesses the noise and vibration effects from the construction and operation of the Sizewell C project at the MDS, and is supplemented by chapters for each of the Associated Development Sites (“ADS”) [ER 5.18.20]. A CoCP was submitted by the Applicant and updated during the Examination [ER 5.18.21]. The aim of the CoCP is to provide a clear and consistent approach to the control of construction activities on the MDS and ADS to minimise impacts on people and the environment.
- 4.559 The noise assessment followed the development site construction programme which is divided into five phases. Construction noise and operational noise at the MDS (including the ACA); SPR; NPR; SLR; TVB; Yoxford Roundabout are considered. Construction noise at proposed road improvements at the A12/A144 junction south of Bramfield; FMF are considered [ER 5.18.122 et seq.]. Construction noise at the Fen Meadow Compensations Areas and Alde Valley Academy sports facilities is considered at [ER5.18.127 et seq.]. Road Traffic Noise is assessed based on the assessment of two representative construction years and an operational year. The ES assessment was updated with revised noise traffic modelling and in the third ES Addendum [REP6-017] predicted effects at the TVB were corrected and for the SLR [ER 5.18.135].
- 4.560 The CoCP would be secured through the Order, via Requirement 2 [REP10-009]. The CoCP sets out that further documents will need to be submitted for approval as the project progresses including a MDS Noise Monitoring and Management Plan (“NMMP”) and ADS NMMP [ER 5.18.22]. Drafts were submitted and updated during the examination and the Applicant submitted change requests that included a revised freight delivery strategy with revised traffic modelling [ER 5.18.24 et seq.], and as a consequence the ES Addendum and associated appendices were amended [ER 5.18.26 et seq.]. The Methodology confirms that the assessment was developed following consultation with the relevant local authorities to agree monitoring locations, assessment criteria, noise source data, and the approach to both noise and vibration [ER 5.18.35 et seq.].
- 4.561 The ExA advised the Secretary of State that towards the end of the Examination as part of further mitigation being proposed by the Applicant pedestrian crossings were proposed on the A12 and B1122 an assessment of these effects was not presented to the Examination [ER 5.3.150]. The Secretary of State in his letter dated 18 March 2022 requested further information on the effects of the introduction of crossing in terms of air quality, noise, and driver delay. This is considered in the Air Quality section of this decision letter.

#### *The ExA’s Conclusions on Noise and Vibration*

- 4.562 The ExA recognises that there will be a series of harms and benefits that arise from the Proposed Development both during construction and subsequent operation [ER 5.18.337].

#### *Harms*

- 4.563 The ExA considers [ER 5.18.338] that the AONB would be the subject of substantial construction noise which have a materially harmful effect on tranquillity, one of its statutory purposes, for the whole of the construction



programme. The ExA concludes that the package of measures offered through the Order, DoO and control plans would mitigate and manage these harms as well as could be expected, but they nevertheless would still result in harm to the statutory purpose of the AONB over a substantial area. The ExA ascribes moderate weight to this issue against the making of the Order [ER 5.18.338]. The Secretary of State agrees with the ExA's conclusion on this matter.

- 4.564 The construction of the NPR, SPR, FMF, SLR and TVB introduces road surface and construction noise into a countryside environment where there is currently limited or no effect from such a noise source, negatively affecting a number of residents and communities [ER 5.18.339]. The Secretary of State received a number of post examination representations that included the effects on communities. The ExA considers appropriate mitigations are secured via the CoCP and NMMPs such that noise levels would be controlled to adequately manage the effects. The ExA ascribes little weight to matters relating to this issue against the making of the Order [ER 5.18.339]. The Secretary of State agrees with the ExA's conclusion on this matter.
- 4.565 The ExA notes that provision of quiet road surfacing in combination with landscape bunds/fencing along both the TVB and SLR would be subject to further investigation as set out in the ADDP, and finalised arrangements would be secured through the Order and could meet policy requirements [ER 5.18.342]. The ExA notes the final mitigation measures would need to be approved by ESC/SCC and both Councils have agreed the principle of minimising and mitigating noise at source [ER 5.18.342]. The ExA notes that having considered that both Councils maintain their position, this provision is now included within the DoO for both the TVB and SLR [ER 5.18.343].
- 4.566 The ExA concludes [ER 5.18.344] that subject to the agreement of the Councils, the Applicant's commitments through the DoO and the ADDP could result in a satisfactory noise environment on the TVB and SLR, noting the ongoing maintenance considerations raised by SCC [ER 5.18.345 et seq.]. The ExA considers this is satisfactory and ascribes little weight relating to this issue against the Order being made [ER 5.18.346]. The Secretary of State agrees with the ExA on this matter.
- 4.567 The ExA notes increased noise during the early years along the B1122 affects all properties for a period in the region of three years. While there would be measure in place to mitigate this through the CTMP, CWTP, and absolute limits on HGV and HDV numbers, residents would be subject to noise six days a week from around 07:15 to 23:00 [ER 5.18.346]. The ExA has considered that the Noise Mitigation Scheme ("NMS") has been amended to be available to all properties facing onto the B1122 which could achieve a considerable improvement in reducing the noise within those properties to an acceptable level during the early years [ER 5.18.347]. The ExA considered that the consequential noise environment in gardens is not addressed. The Applicant has indicated that 11 properties on the B1122 between Yoxford and the junction of the B1125 would be subject to traffic noise that could be at Significant Observed Adverse Effect Level ("SOAEL"), which the ExA considers represents substantial harm for the period the traffic would be present [ER 5.18.347].

- 4.568 The ExA recognises [ER 5.18.353] that mitigation is provided through the various control measures on traffic through the CTMP and CWTP, but these measures do not remove the potential for noise generated at the level of SOAEL. The ExA are not clear of the degree of benefit that might arise in this location from the provision of quiet road surfacing, in light of the policy conflict considers that the Secretary of State may wish to be satisfied that the consequences of such measures have been fully considered and the Councils are satisfied regarding the potential for quiet road surfacing on the B1122 from Yoxford to the junction of the B1125. In assessing this additional noise mitigation, in line with policy and prior to relying on the NMS, the ExA ascribes moderate weight to this issue against the making of the Order [ER 5.18.354].
- 4.569 The Secretary of State has carefully considered the points raised by the ExA at [ER 5.18.347 et seq.] concerning quiet road surfacing. On 18 March 2022, the Secretary of State requested further information from the Applicant with regards to the potential for vibration from construction traffic along the B1122. The Applicant was asked to provide information as to whether quiet road surfacing at the section of the B1122 up to the junction with the B1125 has been considered and should set out its position regarding quiet road surfacing at this location. The Applicant's response dated April 2022 in relation to noise and vibration considers that a quiet road surface is no more likely to reduce vibration than a standard hot rolled asphalt surface if both are maintained in good condition and free from discontinuities, and vibration will be minimised by keeping the road surface in a good condition under the 'Highway Structural Maintenance Contribution' in Schedule 16 of the DoO [REP10-078]. This commitment applies to the whole length of the B1122 from Yoxford to the MDS in the Early Years (Annex Z of the DoO [REP10-081]). The Applicant advises that following a number of meetings with SCC in their joint SoCG with ESC [REP10-104], in the absence of a quiet road surface on the B1122, they have agreed in principle, during the period of peak traffic flow in the Early Years, a reduction in speed limit to 20mph, parties agree there is limited or no benefit from a quiet road surface where traffic is travelling at speeds of 30mph or less and insulation is to be offered to properties along the B1122.
- 4.570 The precise details of the Early Years scheme and the necessary interventions are to be agreed with SCC by virtue of the provisions at 5.7 of the Schedule 12 of the DoO. On 25 April 2022 the Secretary of State asked the Applicant to provide details on any further mitigation that could be provided in relation to noise and vibration impacts on the relevant part of the B1122 before the SLR is in place. The Applicant responded that, following further engagement with SCC and ESC, further steps are now proposed, including residential surveys and highway condition surveys secured through a Deed of Variation ("DoV") between SCC and ESC. Prior to commencement the Applicant will agree with SCC a specification for the condition of the road surface of the B1122 and the Applicant will undertake a further visual condition survey of the B1122. Having considered the additional measures agreed with the Councils, the mitigations proposed by the Applicant, and the post-examination representations received, the Secretary of State considers that the matter of noise and vibration raised by the ExA will be mitigated to a degree through the controls and provisions of the DoO, but that it is not demonstrated that harm caused by noise and vibration will be removed altogether. Whilst he accepts the Applicant's position with

regards to quiet road surfacing on this part of the B1122 he considers that despite the mitigation, noise and vibration impacts would remain. For this reason the Secretary of State agrees with the ExA that moderate weight to this issue should be ascribed against the making of the Order on this matter.

- 4.571 The ExA notes [ER 5.18.355] that, notwithstanding the controls delivered through the ADDP, post-consent details for acoustic design measures remain to be approved because of the need for flexibility at this stage. The ExA gives little weight against the Order being made to matters relating to good design in terms of effects on noise.
- 4.572 In respect of the increased noise in the Leiston area from a variety of sources, including construction, road and rail traffic, during the construction period the ExA considers [ER 5.18.356 et seq.] the controls and mitigation measures secured within the Order and DoO would ensure that noise would be kept to acceptable levels and would meet the policy tests in the NPSE and NPS EN-1. The ExA ascribes little weight to matters relating to the issue against the making of the Order [ER 5.18.357]. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.573 The ExA considers [ER 5.18.358] that the introduction of night-time rail freight services will increase the night-time rail noise along the main line from Ipswich where there is only the occasional night-time train, and introduce night-time noise for the Saxmundham to Leiston branch line and the GRR between Leiston and Saxmundham. The ExA concludes that the mitigation and controls in place through the Rail Noise Mitigation Plan ("RNMP") and NMS would control the noise environment to an acceptable level. The ExA ascribes little weight to matters relating the issue against the making of the Order [ER 5.18.358].
- 4.574 The ExA [ER 5.18.359] is satisfied that the assessment of noise from the rail movements has been properly assessed and the sleep disturbance concerns by IPs understood. The ExA considers that the combination of limiting the number of movements, reducing train speeds and the physical changes proposed to the rail line, in conjunction with the RNMP, will provide a suitable management regime that will control rail movements satisfactorily and ensure that the noise environment from these movements remains within acceptable tolerances. The approval of the final RNMP remains to be approved by ESC and its approval is secured in Requirement 39 of the Order. It will ensure that the freight rail movements along Work No. 4 (rail infrastructure) cannot commence in advance of the mitigation being provided. The ExA is of the view that this provides appropriate security for the delivery of the full package of mitigations [ER 5.18.360]. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.575 The ExA's consideration of the Acoustic barrier at Whitearch Park is set out at [ER 5.18.361]. Whilst it is not certain to be delivered as NR had not been supportive of its provision on their land, there remains the possibility that a barrier may be provided on land within the ownership of the park. The ExA notes [ER 5.18.361] the Applicant's view that, with the exception of one property which would be subject to the NMS, all other properties at the park

would have a suitable acoustic environment. The ExA accepts these conclusions and does not rely on the delivery of the barrier in concluding that an acceptable noise environment would be achieved [ER 5.18.361]. The Secretary of State agrees with the ExA's conclusions on this matter.

### *Benefits*

- 4.576 The ExA notes [ER 5.18.363 et seq.] a number of benefits. These include the improved acoustic environment for the community living either side of the section of the A12 to be bypassed once the TVB is operational. In light of the poor noise environment in this location, this would provide a long term solution, and the ExA ascribes moderate (positive) weight to making the Order [ER 5.18.363]. The reduced noise along the B1122 once the SLR is operational would also be a legacy benefit for community living either side of the section of the road to be bypassed with an improved acoustic environment [ER 5.18.364]. There would also be commensurate benefits for the town of Yoxford as the SLR would facilitate the potential reduction in traffic travelling through the town [ER 5.18.365]. The ExA ascribes little (positive) weight to these issues for the making of the Order. The Secretary of State agrees with the ExA's conclusions on these matters.
- 4.577 The ExA questioned the Applicant on the number of properties that could be subject to noise above SOAEL and a summary table is set out at [ER 5.187.03]. The ExA notes [ER 5.18.367] these figures are regarded as worst-case scenario in all circumstances and in advance of the range of mitigations offered through the CoCP, NMS and RNMP. The ExA [ER 5.18.367] also notes that a greater number of properties will qualify for insulation both along the rail line, at the MDS, and also along the B1122, which is a welcome improvement to the NMS.

### *Overall Conclusions*

- 4.578 The ExA concludes that the impacts on the noise environment during the construction and operation stages have been properly assessed and that all reasonable steps have been taken or will be taken to ensure that noise standards as set out are not breached, except in respect of the properties on the B1122 in the early years [ER 5.18.368].
- 4.579 The ExA states that whilst there would be adverse effects during construction these need to be balanced against the positive benefits that also arise. The ExA is content that with the mitigation proposed the development would comply with NPS EN-1, and the NPSE [ER 5.18.369].
- 4.580 In respect of vibration effects that could occur, the ExA is satisfied that with the appropriate mitigation in place as secured through the CoCP, NMMP and Order that no significant adverse effects would occur, and that the development would comply with NPS EN-1, and the NPSE [ER 5.18.370].
- 4.581 The ExA recommends that an additional requirement should be included to address the potential for vibration from construction traffic along the B1122 which was left unresolved at the end of the Examination, in the event the Secretary of State decides in favour of granting the Order. The Secretary of

State has noted the relevant mitigation measures included by the Applicant in the second Deed of Variation to protect the amenity of residential properties and road users on the B1122 and considers that this mechanism would be sufficient and a further requirement is not necessary.

- 4.582 The Secretary of State agrees with the ExA that despite the mitigations proposed, harm would arise to certain properties during the early years period, including the consequential noise environment in gardens that may occur and that construction noise would also result in harm to the statutory purpose of the AONB over a substantial area. As a result, he agrees that moderate weight should be ascribed to matters related to noise and vibration against the Order being made.

### Radiological Considerations

- 4.583 The ExA notes [ER 5.20.1 et seq.] the legal and policy framework relevant to radiological considerations, including international legislation and guidance, national legislation, and the relevant national policy set out in NPS EN-1 and NPS EN-6.
- 4.584 Chapter 25 of the ES provides an assessment of the radiological considerations in respect of the construction and operation of the Proposed Development. [APP-192] provides the Applicant's assessment in relation to spent fuel and radioactive waste management. Both documents are supported by Appendix 6U of [APP-171] which sets out the assessment methodology. The scope of the radiological assessment was established through a formal EIA scoping process undertaken with the Planning Inspectorate.
- 4.585 The EA has undertaken an assessment of the radiological discharges and the associated impacts for the generic UK sites, through the Generic Design Assessment, and issued a Statement of Design Acceptability which confirms the design remains well within the statutory limits [ER 5.20.13]. During construction contractors would be required to manage sealed sources for radiography under the terms of their mobile permit as part of the arrangements under the Nuclear Site Licence ("NSL"), that any works within the Sizewell B site would be subject to the relevant existing NSL and the Radiological Substances Regulations environmental permit, and that to comply with the NSL, environmental permit and Ionising Radiations Regulations 2017, a radiological survey of the existing outage store on the Sizewell B site will be undertaken prior to demolition [ER 5.20.14 et seq.].
- 4.586 During operation, the regulatory framework will control the disposals of radioactive waste and emissions [ER 5.20.17]. The Applicant will need to demonstrate to the EA, in its application for a Radioactive Substances Regulations ("RSR") permit, the application of Best Available Techniques to minimise radioactive waste generated and that the gaseous and liquid effluents discharges are kept As Low As Reasonably Achievable. The RSR permit, if granted, will require the Applicant to get permission from the EA before making any discharges of radioactivity into the environment or disposals of radioactive waste.

- 4.587 The Nuclear Decommissioning Authority is responsible for the decommissioning and clean-up of all legacy nuclear civil nuclear sites in the UK, including the management of radioactive waste [ER 5.20.26].
- 4.588 In excess of 300 RRs related to radiological issues arising from the Proposed Development, which can be broadly split into the following categories: radioactive discharges impacting on human health and the environment, radioactive waste, the safe long-term storage of radioactive waste and spent fuel, adequacy of emergency planning, and transboundary issues [ER 5.20.34].
- 4.589 The ExA's Initial Assessment of Principal Issues set out [ER 5.20.35] the main issues arising from the ExA's understanding of the Application and the RR's received, as the adequacy of provision of facilities for the safe storage of Intermediate Level Waste and spent fuel rods and whether contingency is adequate, and longer-term plans for this storage and how this would be facilitated and maintained. Change 19 which included a desalination plant resulted in additional issues being raised by IPs and the ExA. These issues are considered in Chapter 5 of the ExA report. However, the ExA notes [ER 5.20.87 et seq.] that the ONR did not consider that the issue of the water supply strategy would have any implications for licensing or timetabling.
- 4.590 The issues of coastal defences, and the impact of climate change on the modelling for the safety of those defences, were considered by the ExA in section 5.8 and section 5.7 of the ExA Report respectively. The ExA considers [ER 5.20.101] that the coastal defences have been designed so they can be modified if it is necessary to do so, with the monitoring of the sea levels secured through the CPMMP, and this is further reinforced by the obligations required by the NSL regime regulated by the ONR and the permits regulated by the EA. The ExA is persuaded [ER 5.20.102] that the Applicant's conclusions are predicated on the basis that the site will be clear of nuclear material by 2140, the period which has been modelled for coastal defences, and under these circumstances the ExA consider the tests set out in paragraph 2.11.5 of NPS EN-6 would be met.
- 4.591 The ExA considers [ER 5.20.103] there is sufficient evidence to reach this conclusion, but highlight that should the Secretary of State disagree, he may wish to consult other parties before reaching a decision. The Secretary of State agrees with the ExA's conclusions on this matter. However, the Secretary of State notes that on 18 March 2022, further information was requested from the EA on the modelling related to the SCDF and HCDF. The EA's response noted that the Applicant has continued to work with the EA (and others) since the Examination ended to bring this matter to a close, and as a result prepared an additional report (BEEMS Technical Report TR553 "Modelling of Soft Coastal Defence Feature under Design Basis Conditions" v2) in an endeavour to address the outstanding issues. The EA confirmed that, having reviewed the report, it has resolved its concerns that remained at the close of the Examination.
- 4.592 The ExA considered [ER 5.20.39 et seq.] radioactive discharges impacting on human health and the environment, and noted [ER 5.20.45] the clear advice in the NPS that it is not the ExA's role to duplicate the consideration of matters

within the remit of nuclear regulators, and it is the ExA's view that the responses provided to the questions raised by the ExA confirm that the nuclear regulators are very much aware of the issues raised by IPs in this respect.

- 4.593 With regard to radioactive waste, the ExA notes [ER 5.20.50 et seq.] that in response to its concerns that the calculations provided for waste generation, storage and management may have underestimated the scale of building required for safe management of waste materials, the Applicant confirmed that the 60-year period as the one assessed and that capacity for onsite storage of the spent fuel in the ISFS would be able to accommodate the whole inventory generated from 60 years of operation. The ExA notes [ER 5.20.53 et seq.] the UK Government Policy that requires new nuclear builds to store Intermediate Level Waste and Spent Fuel on-site until the availability of a Geological Disposal Facility ("GDF"). The ExA is satisfied [ER 5.20.97] the provision of on-site storage means that the Order as submitted can be determined by the Secretary of State. The ExA agrees [ER 5.20.121] that the waste storage facilities can be consented under a DCO application under the Planning Act 2008, given the Government Policy requirement for on-site storage until the availability of a GDF. The ExA concludes [ER 5.20.122] that radioactive waste is not a matter which should weigh against the Order being made, but notes that the ONR has confirmed that the application for the NSL is still under consideration.
- 4.594 The ExA considered [ER 5.20.63 et seq.] the adequacy of emergency planning and noted the [ER 5.20.66] concerns raised by IPs, including SCC, on the need to secure appropriate emergency planning measures in requirement 6 (previously requirement 5a) of the draft Order. The ExA notes [ER 5.20.105] that the SCC and ESC raised the issue of an amended requirement to achieve the production of a safety management plan in advance of works commencing. The Secretary of State notes that on 24 February 2022, the Applicant submitted wording for the relevant requirement in the draft Order that has been agreed with the ONR, SCC, and ESC. The Secretary of State is satisfied that this matter has been addressed.
- 4.595 With regard to transboundary issues, the ExA is satisfied [ER 5.20.85] that, in terms of the Espoo convention, the EIA assessment covering relative matters has been carried out at an early stage of planning and that appropriate notification and consultation with relevant States has been undertaken in accordance with the Planning Inspectorate's procedures. The ExA is also satisfied [ER 5.20.86] that the ES has considered the transboundary implications of such matters. With regard to Espoo, the Secretary of State notes that the Applicant provided its response to the Government of Austria's questions in response to the Secretary of State's letter of 18 March 2022. The Secretary of State further notes that the Government of Austria subsequently responded on 23 May 2022. The Applicant and the ONR were invited to provide final comments on the Government of Austria's Final Expert Statement. Further detail on this matter can be found in the Transboundary impacts Subsection at paragraphs 4.339 to 4.354.
- 4.596 With regard to safe-long term storage of radioactive waste and spent fuel, the ExA notes [ER 5.20.57] that the Applicant explained that the relatively simple

design of the interim store facilities means it would be capable of extension beyond the 100-year design life, if necessary. The ExA considers [ER 5.20.126 et seq.] the issue of long-term storage and notes [ER 5.20.132] that the Applicant relies on their duties of meeting their obligations under the NSL, which is governed by the ONR.

- 4.597 The ExA concludes [ER 5.20.134] that there is sufficient evidence to reach a conclusion on this matter, but notes that the Secretary of State may wish [ER 5.20.135] to satisfy himself that the safe storage of radioactive waste will be achieved for the lifetime of the project in light of the modelling undertaken on coastal defences. The ExA notes that its conclusions [ER 5.20.133] on this matter are based on the removal of the ISFS by 2140, and that it is under these circumstances that the ExA are of the view that the policy tests in the NPS are met.
- 4.598 The Secretary of State agrees with the ExA's conclusions on this matter. In reaching this conclusion the Secretary of State has noted the further information provided by the EA with regard to the coastal defence modelling and also notes that the Applicant is required to obtain an NSL.

#### Socio Economics

- 4.599 The Secretary of State notes the consideration of the relevant policy [ER 5.21.1 et seq.] including EN-1 paragraph 5.12.2 which states that where a project is likely to have socio-economic impacts at either local or regional levels, to undertake an assessment of those impacts as part of the ES. NPS EN-6 also contains detailed policy specific to nuclear power stations, paragraph 3.11.2 of which acknowledges that there are likely to be both positive and negative effects from this type of development. Paragraph 3.11.3 requires that the applicant identify at local and regional levels any socio-economic impacts associated with the construction, operation and decommissioning of the proposed power station and that the assessment should demonstrate that the applicant has, amongst other things, taken account of the potential pressures on local and regional resources, demographic change and economic benefits [ER 5.21.6]. Other relevant policy includes Section 6 of the NPPF and Suffolk Coastal Local Plan policy SCLP3.4.
- 4.600 The Applicant's case includes Chapter 9 of the ES which provides an assessment of the socio-economic effects from the construction and operation of the Proposed Development at the MDS and the ADS. At [ER 5.21.11] Construction and Operational effects are set out with the Assessment Methodology, Environmental design and mitigation and Tertiary mitigation and enhancement at [ER 5.21.17 et seq.]. The ExA covers Examination matters at [ER 5.21.130 et seq.].
- 4.601 The ExA considered the potential economic effects on tourism in the local area [ER 5.21.153 et seq.]. It accepts that during construction there would be some impact on tourism in the local area due to construction activity. For this reason, the Applicant is proposing the Tourism Fund to address any negative impacts on the local economy. The ExA considers [ER 5.21.155] that the managed and targeted Tourism Fund would be an effective mitigation approach for any impacts that do arise for local tourism. Overall, the ExA concludes [ER



5.21.156] that in terms of the tourism economy the effects during construction are likely to be negative, although mitigation would be available. Once construction is complete and the Proposed Development in operation the effects would be neutral. Overall, the ExA considers that matters relating to tourism effects should be ascribed little weight against making the Order [ER 5.21.227]. The Secretary of State agrees with the ExA's conclusions on this matter.

- 4.602 The ExA considers that the Applicant has adequately assessed the likely significant effects on accommodation created by the need to accommodate the workforce during construction. This includes proposing to provide a 2400 bed accommodation campus and a 600-berth caravan site on the Proposed Development site [ER 5.21.171]. Off-site effects have been identified and the Applicant, through the DoO, is proposing a package of mitigation. The Housing Fund provides support for both private housing and tourist market supply and in addition the Applicant is proposing support for the consequential effects on the more vulnerable groups who may be affected by the increased demand created by the Proposed Development [ER 5.21.172]. Taking all this together, the ExA consider that any accommodation effects arising should be given neutral weight in the making of any Order [ER 5.21.173]. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.603 The ExA concludes on economy and business effects at [ER 5.21.199] and has considered that the Councils and other stakeholders acknowledge that substantial economic opportunities would arise from the Proposed Development. Through engagement with stakeholders a package of measures secured by the DoO seeks to maximise the opportunities for the local economy and offset any potential negative effects that may occur [ER 5.21.200]. The ExA gives very substantial weight to the benefits relating to the local economy and business for the making of the Order [ER 5.21.201]. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.604 With regards to Employment and Skills effects the ExA notes [ER 5.21.224] that the Applicant has demonstrated that there would be significant employment opportunities created by the Proposed Development and that it has been working with the Councils and regional stakeholders to maximise the benefits of opportunities that would be created. Initiatives would be secured within the DoO and would assist in mitigating any potential negative effects with respect to concerns about cumulative impact of large infrastructure projects in the region and the legacy effect on employment once the Proposed Development is operational [ER 5.21.225]. For these reasons the ExA considers that very substantial weight should be given to the significant benefits on employment and skills arising from the Proposed Development [ER 5.21.226]. The Secretary of State agrees with the ExA's conclusions on this matter.

#### Traffic and Transport

- 4.605 The Secretary of State notes the ExA's consideration of the relevant policy [ER 5.22.2 et seq.], including the requirements set out in section 5.13 of NPS EN-1 and the NPPF. On 27 May 2022 the Planning Inspectorate informed the

Secretary of State of a typographical error in the reference to the NPPF at paragraph 5.22.9 of the ExA Report. The ExA report refers to paragraph 109 of the NPPF which was renumbered in the 2021 Framework and is now paragraph 111. The Planning Inspectorate confirmed that the ExA's assessment considers the 2021 NPPF and that the consideration of the highway impacts in paragraph 5.22.9 is based on the updated Framework. The Secretary of State does not consider this materially affects his consideration of the Application.

- 4.606 The Secretary of State notes that the submitted Transport Assessment ("TA") had been in development since 2012 and involved extensive pre-application discussion and scoping with both ESC and SCC [ER 5.22.11 et seq.]. The ExA confirmed it has been prepared in accordance with relevant guidance and summarises the systematic assessment of transport issues relating to the Proposed Development and associated development. It sets out an overall transport strategy and identifies what measures will be taken to deal with the anticipated transport impacts of the Proposed Development.
- 4.607 The main constituent parts of the transport strategy are a freight management strategy for the movement of materials and a construction worker travel strategy for the movement of people. The transport strategy has three key phases [ER 5.22.12], and these were modelled [ER 5.22.34]:
- The Early Years (assessed in 2023), when both the MDS and associated development sites are under construction, without any highway mitigation in place;
  - Peak construction (assessed in 2028), when the MDS is under construction but the associated development sites, including the highways mitigation, are operational; and
  - Operation (assessed in 2034), when the Proposed Development and the permanent associated development is operational, following the removal and reinstatement of the temporary associated development.
- 4.608 The Early Years Transport Strategy includes an Early Years Workforce Transport Strategy [ER 5.22.13 et seq.] that includes Land East of Eastlands Industrial Estate ("LEEIE"), also called the Ancillary Construction Area ("ACA") and an [ER 5.22.13 et seq.] Early Years Freight Transport Strategy [ER 5.22.17 et seq.]; the Peak Construction Transport Strategy includes a Peak Construction - Workforce Transport Strategy [ER 5.22.23 et seq.] and a Peak Construction - Strategy for Freight and Materials [ER 5.22.28 et seq.]. The ExA notes [ER 5.22.29] that key measures to minimise the volume of freight by road include the BLF, the GRR and the Postal Consolidation Facility. Measures for the management of residual freight by road are set out at [ER 5.22.30] and include highway improvement works including the TVB to mitigate impacts of traffic to and from the main development site on the A12, particularly on the bend through Farnham; the SLR to relieve the B1122 from the anticipated construction traffic associated with the main development site; a roundabout at the junction of the A12/B1122, at Yoxford, to increase the highway capacity of the junction, reduce accident risk and accommodate AILs to/from the A12 north of the B1122; and highway safety improvements at A12/A144 south of Bramfield, A12/B1119 at Saxmundham and A1094/B1069 south of Knodishall [ER 5.22.30].

4.609 In the operational phase, [ER 5.22.31] there would be no significant remaining requirement for large scale freight movement. The GRR would be removed, but the BLF would be retained to enable some AIL deliveries by sea during the operational phase. Other freight deliveries would be by road. The main operational access to the Proposed Development would be via a new access road starting from the B1122 at the main site access roundabout used during the construction phase. An operational travel plan would be agreed with SCC prior to the operational phase, which would encourage operational staff to walk, cycle or car share whenever possible. A summary of development proposals included in the TA is at [ER 5.22.32 et seq.].

#### *Cumulative Assessment of the Scottish Power Projects*

4.610 The TA takes account of both EA1N and EA2, which would begin construction sooner than the Proposed Development. The ExA notes [ER 5.22.36] that if both projects were to go ahead, the construction phases would likely overlap, and therefore they should be considered as part of the Proposed Development's cumulative assessment since the traffic associated with each project would use some of the same roads. On 31 March 2022 the Secretary of State granted consent for EA1N and EA2. The ExA notes [ER 5.22.37] that at the time of writing the projects were not regarded as committed, so were not included in the reference case or the Proposed Development core assessment scenarios. The projects are included as a 'cumulative' scenario for the transport, noise and vibration, and air quality assessments presented in Vol. 2, Chapters 10, 11 and 12 of the ES respectively [ER 5.22.37].

#### *Road Safety Improvements and Rail Strategy*

4.611 The TA examined [ER 5.22.42] road safety implications of the traffic associated with the Proposed Development and, as a result, it concluded that a number of road safety improvement works were proposed. The Applicant [ER 5.22.43] will also implement or provide a contribution to fund road safety improvements on the B1078 corridor at the A140/B1078 junction west of Coddendam and on the B1078 in the vicinity of Easton & Otley College to mitigate potential highway safety issues. The transport strategy [ER 5.22.45 et seq.] proposes constructing a new rail route (the GRR) branching off the existing Saxmundham to Leiston branch line into the main construction area on a temporary basis during construction, and undertaking rail improvement works on the branch line to accommodate the proposed number of freight train movements [ER 5.22.45 et seq.] In recognition of the relatively remote location of the MDS a walking and cycling strategy has also been devised [ER 5.22.48].

#### *Transport Management Plans & Mitigation*

4.612 The ExA notes [ER 5.22.49] that the overall transport strategy for the construction phase includes a proposed package of management plans to manage, control and monitor freight and construction worker movements on the highway network, including a TIMP [ER 5.22.51], CTMP [ER 5.22.52] and a CWTP [ER 5.22.53]. The Applicant [ER 5.22.54] would be responsible for implementing and administering the management plans with assistance from the local transport co-ordinator; TRG and local transport and traffic groups, and

the transport management plans would be secured in the DoO [ER 5.22.55]. The TRG would be formed prior to commencement of construction [ER 5.22.56].

- 4.613 Chapter 10 [ER 5.22.60] of the ES presents an assessment of the transport effects arising from the construction and operation of the MDS and the construction, operation and removal and reinstatement of the associated development sites. The transport effects in the ES [ER 5.22.61] have been undertaken in accordance with the Guidelines for the Environment Assessment of Road Traffic published by the Institute of Environmental Assessment in 1993 and the Design Manual for Roads and Bridges published by DfT in 2008. The primary mitigation for significant effects [ER 5.22.66] is set out in paragraph 10.5.9 of Chapter 10. The tertiary mitigations include the TIMP, CTMP, CWTP and Worker Code of Conduct. The assessment concluded that there are expected to be significant adverse effects in the early years and that the Applicant has proposed mitigation measures to address these effects [ER 5.22.68]. The ExA notes the same for the significant adverse effects expected in the peak construction period [ER 5.22.69 et seq.] which include major adverse effects on severance on Abbey Road, Leiston; major adverse effects on severance on footpaths 243/001/0 and E-137/029/0, as a result of the TVB and major adverse effects on pedestrian delay as a result of footpaths E-396/015/0 and E-515/005/0 being permanently diverted to join the proposed Pretty Road non-motorised user overbridge, which would increase the walking distances for Public Right of Way (“PRoW”) users.
- 4.614 With regard to the operational phase, the ExA notes [ER 5.22.71] that the assessment concluded that there were major and moderate adverse effects on a number of footpaths and PRoW users. The assessment considered there was no further scope for mitigation of the adverse effects on footpaths in terms of severance and pedestrian delay for the same reasons as set out for the peak construction. With regards to residual adverse effects [ER 5.22.72 et seq.], the assessment identifies there is a significant residual adverse impact in the early years on pedestrian amenity on parts of the B1122 and that along the TVB and SLR there are significant residual adverse effects on users of some PRoW running across the new roads during the peak construction period and throughout the operational period [ER 5.22.73]. The assessment identifies significant residual positive benefits for the section of the B1122 and the A12 that have been bypassed from the peak construction period onwards throughout operation [ER 5.22.74].

#### *Cumulative Effects*

- 4.615 In the ES Volume 10 Chapter 4, the Applicant examined other developments and the potential additional traffic effects of those developments. Alongside committed developments this chapter examines the potential effects of EA1N and EA2 including concurrent build traffic flows; the programme for EA1N and EA2 for construction; and the worst-case assessment of traffic and cumulative assessment based on the busiest day at peak construction for the Proposed Development [ER 5.22.75 et seq.]. The Applicant concluded that only in sections of the A12 at Little Glenham and Marlesford would the fear and intimidation factor for non-motorised (including pedestrians, cyclists and

equestrians) and motorised users in the peak construction year of 2028 be a significant effect in the cumulative case and that this would only be a short-term overlap in construction and the Applicant was satisfied that additional mitigation measures proposed would address this issue [ER 5.22.76].

*Pre-Examination & Examination Matters*

- 4.616 Pre-examination matters are set out at [ER 5.22.77 et seq.]. The ExA notes [ER 5.22.82] that the controls for movement by road would be controlled by the Delivery Management System (“DMS”), that would monitor and plan HGV deliveries to the site. A significant concern for IPs relates to the amount and routing of HGV traffic throughout the construction period [ER 5.22.86]. The Applicant proposes to monitor and control this by measures in the CTMP secured within the DoO which would limit the daily flow of HGV and their permitted routes they should follow. Specified routes during the Early Years would be the A12 and B1122 and after construction of the SLR it would be the A12 and the SLR [ER 5.22.86].
- 4.617 ESC and SCC raised a number of concerns in their joint LIR including the lack of certainty that both the sea and rail proposals would be delivered and the consequential implications for HGV movement of freight [ER 5.22.87] and sought a robust control framework to ensure that, should there be issues in delivering the necessary rail and sea capacity, that would not mean greater reliance on freight movement by road. The ExA asked for further detail of the potential carrying capacity of the various modes of freight movement and why the theoretical carrying capacity of HGV operating at the proposed cap levels could mean HGV alone could carry in excess of the total amount of the required imported materials of 12.1 Mt. The Applicant’s response [REP2-100] explained that this would not be likely to occur as HGV arriving to site would constitute a mixed fleet therefore the assessments, using an 18.5t per HGV payload would not reflect the actual HGV import of the project [ER 5.22.89]. The Applicant states that during the Early Years (Years 1 and 2) there would be a bias towards bulk materials when the rail and marine import infrastructure are available. Following this, bulk materials would predominantly be imported by rail or marine and the typical payload of HGV would drop. The ExA considers [ER 5.22.90] this would mean there is more likelihood of larger HGV during the early years when most bulk movement of materials would be undertaken by road [ER 5.22.90]. The Applicant confirmed that the proposed Early Years cap level of 300 HGV for deliveries to the MDS would relate to all HGV traffic for the Proposed Development on the B1122.
- 4.618 During the Examination it was established that the Early Years has 2 definitions depending on whether it relates to HGV or worker travel [ER 5.22.92]. For HGV the Early Years is defined as the period in advance of the opening of both the SLR and the TVB. For worker travel the Early Years is defined as the period in advance of opening of one or other of the remote park and ride sites. The park and ride sites have the potential to be open in advance of the SLR and TVB, and there would be a period in the Early Years where park and ride buses and direct bus services may be using the B1122 and the Applicant confirmed that buses would be included in the Early Years cap level of 300. The cap was subsequently expressed as HDV to include buses.

- 4.619 The Applicant has set out its position in Appendix A - Material Imports and Modal Split [REP5-114], which was subsequently revised to include a change request submitted at [REP7-286], that shows a number of peaks over the 300 HDV limit. The Applicant maintains these will be kept within the limit by control of the DMS with the profile of HDV movement in the Early Years smoothed out and deliveries managed within the set limits [ER 5.22.94].
- 4.620 The Applicant in addressing a potable water supply issue, submitted a change request [REP7-286] to deliver a temporary desalination plant which would provide potable water during the construction period. During the installation of the desalination plant there would be a period where potable water would be provided by tankers from a remote source. There would be up to 40 articulated water tankers a day during this period [ER 5.22.95]. The Applicant confirmed this would be accommodated within the 300 HDV Early Years cap [REP7-036]. The ExA sought an updated position from that provided in the Material Imports and Modal Split [REP5-114]. The Applicant submitted revised details showing how the revised approach can be accommodated within the cap level of 300 [ER 5.22.96]. The HDV profile shows that this cap level would be reached on numerous occasions in the Early Years and during the peak construction years there would be relatively few occasions where the cap level is reached. The ExA considers [ER 5.22.97] this suggests that the Early Years period would be a relatively intense period of HDV activity before the SLR is built. The environmental assessment of traffic effects, including the B1122 of this HDV activity (including water tankers), is covered in paragraph 4.644 et seq. The ExA notes that AIL are not included in the caps of HDV movements, but concerns were raised by IPs about the effect on traffic movement [ER 5.22.98 et seq.]. The largest and heaviest AILs would be transported by sea when the BLF is operational. The Applicant [REP5-114] provided evidence about frequency and timing of travel along the A12 and B1122 to demonstrate only a relatively small number of the largest AIL would have longer journey times along the B1122. In their SoCG, Suffolk Constabulary [REP10-106], East of England Ambulance Service [REP10-105] and Suffolk Fire and Rescue [REP10-103] have all agreed with the Applicant's approach with respect to managing the impact of movements of AIL.
- 4.621 IPs [ER 5.22.102 et seq.] raised concerns about the rail freight capacity and adverse impacts on the existing Ipswich/Lowestoft passenger service, and the Councils' joint LIR also raised concerns [REP1-045] and Felixstowe Town Council [REP2-181] questioned whether this would disrupt train movements to Felixstowe port. NR clarified in its WR that they had identified a number of potential train paths [REP2-155] and had agreed [REP7-146] their programme of delivery with the Applicant. NR's final SoCG [REP10-099] confirmed it was working with the Applicant to deliver the necessary rail improvements to facilitate the programme of delivery.
- 4.622 At Change 2 [ER 5.22.107] an enhancement of the BLF and construction of a new temporary MBIF was included, and the traffic related effects are considered in combination with the effects assessed for Change 1. The ExA concludes [ER 5.22.108] that the Applicant has endeavoured to increase the potential for more marine and rail freight, by submitting Changes 1 and 2 [AS-105] and is hoping to better align its freight transport strategy with the

preference for water-borne or rail transport set out in NPS EN-1. The ExA notes that whilst IPs were generally supportive of the increased use of sea and rail there were outstanding concerns over the level of HDV traffic. It concludes overall that the Applicant's revised approach, following Changes 1 and 2, would be effective in meeting the preference for water borne and rail transport.

- 4.623 The ExA notes [ER 5.22.110 et seq.] that the Applicant proposes to manage worker travel by mode share targets and parking controls in the CWTP [APP-609]. During the early years there will be a temporary park and ride site at the ACA and after the opening of one or other of the park and ride sites on the A12 early years park and ride provision will cease. SCC agrees the Applicant has provided a suitable mechanism to control fly parking [REP8-116]. The ExA sees no evidence to disagree with this although notes the differing definitions of "early years" could lead to difficulty in monitoring traffic levels. Despite this the ExA considers [ER 5.22.114] that the proposed CWTP approach is acceptable.
- 4.624 The DoO states that the Operation Travel Plan will be implemented for 5 years after the end of construction [REP3-024]. This was discussed at ISH3 [EV-094 to EV-097] and Operational Travel Plan Principles were included at Appendix J of the DoO [REP10-082] by the Applicant with the Applicant committing to at least 5 years of operation unless otherwise agreed by the Transport Review Group [ER 5.22.115 et seq.].

#### *Associated Development Sites*

##### *Sizewell Link Road*

- 4.625 The ExA notes that the Site Selection Report includes key environmental factors of the various route options and that the assessment did not consider the environmental outcomes associated with overall journey time and distance travelled for either worker or freight movements [ER 5.22.117 et seq.]. The ExA notes that the Councils in their LIR [REP1-045] and numerous IPs raised the evaluation of relief road options to the south which would help to address the claimed inadequacies of the chosen route of the SLR. The ExA sought clarification on the missing traffic analysis and how this had been addressed in site selection of the proposed SLR route. In response the Applicant submitted at DL2 the Sizewell Link Road – Principle and Route Selection Paper, which included a Technical Note on traffic modelling undertaken on the route comparison between the proposed SLR and route W at Appendix 10.
- 4.626 The 2020 Modelling results were undertaken after submission of the application and peer reviewed, showing that the SLR would not result in the least route mileage of all options and that an alternative route selection would have decreased overall travel distances and journey times [ER 5.22.124]. Details for route W and the SLR were discussed at ISH2 [EV-086 to EV-089] and the ExA asked for clarifications at both ExQ2 [PD-037] and ExQ3 [PD-049].
- 4.627 The Secretary of State notes that the ExA's remaining concern is that the site selection Key Environmental Factors did not include any transport sustainability factors relating to vehicle mileage and/or journey time and concerns remain that the overall route selection process was focussed on relieving traffic levels along the B1122 through Theberton and Middleton Moor and on the A12 at

Yoxford [ER 5.22.126]. He notes the ExA [ER 5.22.127] accepts the Applicant has provided strong justification for the need for a link road to reduce the impact on the B1122 and that no alternative alignment was available for consideration in the Examination. The Secretary of State notes that the ExA considered [ER 5.22.127] that the route selection should have undertaken a fuller examination of the transport impacts over a wider area and that full consideration should have been given to vehicle mileage and journey times in the route selection. The ExA noted that whilst this is a criticism in the context of traffic and transport management, looking at the route selection in the round, the ExA considers the proposed SLR to be the most appropriate route [ER 5.4.281]. The ExA's conclusions are considered in the Alternatives Chapter of the report [ER 5.4.273 et seq.] and the relevant section of the Secretary of State's decision letter.

- 4.628 The ExA considered [5.22.128 et seq.] a number of specific traffic design issues. Theberton and Eastbridge PC [RR-1214] and a number of other RRs expressed concerns about the removal of vehicular passage along Pretty Road from the B1122 in Theberton. In their response the Applicant submitted change no.18 [REP2-131] that included a revision to their proposals for Pretty Road through making the bridge over the SLR suitable for vehicular and non-motorised users.
- 4.629 The ExA considered [ER 5.22.130] detailed representations from IPs about the layout of the Fordley Road junction and the increased potential for Fordley Road to be used as a rat run. The Secretary of State notes the ExA considered that there will be occasions of inconvenience and disturbance to residents along Fordley Road but IPs have not provided evidence why the proposed SLR connection would lead to any increase in the incidents of rat running. The ExA consider that Fordley Road would not represent an attractive route after the SLR is constructed.
- 4.630 In response to representations and to address concerns related to connecting the B1125 to the SLR and any increase in through traffic along the B1125 travelling north towards Westleton and Blythburgh the Applicant has undertaken additional modelling on the consequences of removing this connection [ER 5.22.134]. This demonstrated a large increase in traffic through Theberton on the B1122 and so the Applicant did not consider it was appropriate. The Applicant has proposed a highways and traffic management scheme in agreement with SCC to address concerns about additional traffic on the B1125, which is secured in schedule 16 of the DoO [ER 5.22.135].
- 4.631 The ExA highlighted that SCC and ESC have differing views on the legacy benefits of the SLR. The Secretary of State notes the ExA consider that the Applicant has made a convincing case for the need for the SLR to endeavour to minimise the impact of the B1122 from construction of the Proposed Development, and both Councils agree. The ExA accepts that the proposed route of the SLR runs roughly parallel to and fairly close to the existing B1122 however it is convinced that there is a long term legacy value of the SLR in reducing traffic along the B1122 through the villages of Middleton Moor and Theberton. This would mean that the B1122 corridor repurposing Scheme



secured within Schedule 16 of the DoO [REP10-077] would be able to be implemented [ER 5.22.142].

- 4.632 The Secretary of State agrees with the ExA that the traffic generated by the construction of the Proposed Development gives rise to the need for significant highway interventions to alleviate the impacts, such as the provision of the SLR [ER 5.22.144 et seq.]. The ExA has concerns that the Applicant seems not to have fully considered the overall effect on vehicle mileage when considering key environmental factors in the route choice and that the analysis of traffic effects on wider communities beyond the A12 and B1122 seems to have been limited in the SLR route choice. This means that it is not clear that the selected route for the SLR is demonstrated to be the optimal choice with respect to overall sustainability in transport terms [ER 5.22.145]. The ExA note that transport considerations are only one element of the SLR's overall sustainability and notwithstanding their concerns there is a strong case for the SLR being required for the construction phase of the development. On balance, the ExA is persuaded that the SLR should be retained as a permanent feature due to the opportunity it affords for a dedicated HDV route and the realisation of legacy benefits on the B1122 corridor [ER 5.22.146].

*Two Village Bypass ("TVB")*

- 4.633 The Applicant's Planning Statement - Site Selection Report [APP-591] Section 6 sets out the rationale for the TVB. Both Councils in their LIR [REP1-045] support the provision of the TVB given that the optimal solution of a four village bypass was no longer possible due to funding considerations [ER 5.22.148 et seq.]. At ISH2 [EV-086 to EV-089] the ExA asked if the route of the TVB prejudiced the future delivery of any four village bypass. The Applicant confirmed this was not the case and SCC agreed the alignment would not prejudice the delivery of the four village bypass. The ExA concludes that the issue relating to the development of a future business case for an additional bypass does not take away from the demonstrated need for the TVB proposed [ER5.22.151].

*Northern Park and Ride ("NPR")*

- 4.634 Section 4 of the Applicant's Planning Statement – Site Selection Report [App-591] sets out the process of the site selection for the NPR. The Councils in their joint LIR [REP1-045] support the principle of the NPR. Darsham PC [REP2-251], HHE [REP2-287] and other IPs object to the location of the NPR and consider that the Applicant has not adequately justified the site selection, and highlighted a safety concern with the NPR. The ExA notes [ER 5.22.155 et seq.] that safety discussions between the Applicant and NR were ongoing. NR have confirmed that the additional traffic associated with the Proposed Development requires the upgrade of the crossing to full barrier control. The ExA reported potential uncertainty about the delivery of the required level crossing improvement works if 50% funding as part of a CP7 bid by NR was unsuccessful. On 18 March 2022, the Secretary of State issued a letter to the Applicant requesting how the full costs of the upgrade works would be met in the event that funding was not secured for the crossing. The Applicant responded that it continues to work closely with NR and, subject to any major

unexpected changes to Government funding, it will be in a position to fund half of the upgrade for Darsham Level Crossing. In the event that funding cuts are forthcoming the Applicant has agreed that it would provide the necessary funding for completion of the works which is consistent with their signed SoCG with NR which confirms that the Applicant would not allow the absence or delay to slow down the construction programme, and that the Secretary of State can be satisfied that these matters are regulated in the Framework Agreement entered into with NR on 2 September 2021. The Framework Agreement protects NR's interests by requiring relevant level crossing improvements to be in place prior to identified Proposed Development related activities. The timings, set by NR, ensure that no adverse risk arises to the operation of the network or its users. The Framework Agreement sets clear provisions for payment – the costs are to be met by the Applicant unless a contribution is forthcoming from NR.

- 4.635 On 25 April 2022, the Secretary of State invited comments from IPs on the responses to his information requests. Comments received raised concerns with funding, the commitment to upgrade the Darsham level crossing before the NPR is brought into use and safety concerns. In light of this the Secretary of State has considered the Applicant's response to his questions on the matter. He has considered the ExA's position at [ER 5.22.262] and his conclusions are set out below.
- 4.636 HHE [REP2-287] expressed concern that 1250 parking spaces were an overprovision and there is no evidence in the TA to support a car park of this size [ER 5.22.162 et seq.]. The Applicant [REP3-042] set out their rationale for spare capacity including flexibility for the actual rather than modelled workforce and allowance for shift changes to avoid congestion. In their joint LIR the Councils note that both park and ride sites would have spare capacity but have not objected providing careful monitoring is in place to ensure staff use the sites. The ExA is satisfied that the Applicant has provided a reasonable amount of flexibility in the size of the car parks for the actual travel patterns differing from the modelled travel patterns of construction workers [ER 5.22.164]. The Secretary of State agrees with the ExA's conclusion on this matter.

*Southern Park and Ride ("SPR")*

- 4.637 The Applicant's Planning Statement – Site Selection Report [APP-591] Section 5 sets out the site selection process for the SPR. The Councils in their joint LIR [REP1-045] support the principle of the SPR. Hacheston PC [REP2-283] and Wickham Market PC [REP2-493] share the view that the SPR should be located further south nearer Woodbridge. The ExA report that it did not see any evidence to demonstrate the site location selection was flawed or that any other site would be better located to intercept journey to work travel for construction workers [ER 5.22.168]. Neither Council objected to the location for the southern park and ride site. The ExA agree that this is a suitable location for the southern park and ride site, when considering predicted traffic movement. [ER 5.22.169]. The traffic associated with the SPR and the effects on local communities was considered in Chapter 10 of the ES [ER 5.22.170]. The Applicant is proposing to provide traffic management measures through Wickham Market and road safety improvements on the B1078, secured in Schedule 16 of the DoO

[REP10-075]. The Secretary of State agrees with the ExA's conclusions on this matter.

*Freight Management Facility ("FMF")*

- 4.638 Section 8 of the Applicant's Planning Statement – Site Selection Report [App-591] sets out the process of the site selection for the FMF. The ExA notes that the Councils in their joint LIR [REP1-045] support the principle of the FMF in that it will increase the likelihood of better management of the movement of freight. Concerns were raised about the effect of closures of the Orwell Bridge and also the impact on the operation of the A14/A12 Seven Hills roundabout on freight movement, and these were views shared by IPs including Felixstowe Town Council [RR-0381]. The ExA raised this in ExQ1 [PD-022] TT.1.109, and the Applicant responded that locating the FMF on the other side of the Orwell Bridge would increase the difficulty in managing freight traffic to the site with any certainty. The TIMP would set protocols to deal with incidents such as the closure of Orwell Bridge. With regards to impacts on the A14/A12 junction, the Applicant [REP3-044] responded that it had modelled the operation of the Seven Hills junction including the operation of the FMF and considered that no improvements were required and that National Highways ("NH") [REP10-095] are content that the Proposed Development will not have a material impact on the Strategic Road Network and that no highway improvements are required at the A14/A12. The ExA are satisfied that the Applicant has addressed all relevant transport effects relating to the FMF [ER 5.22.175]. The Secretary of State agrees with the ExA's conclusions on this matter.

*General Traffic and Highway Issues*

- 4.639 Following the first change submission [AS-105] and a request from the ExA [PD-013] a consolidated TA [REP4-005] combined the original TA and the addendum, and updates the modelling scenarios. The ExA considers that the highway network and junction modelling is acceptable. Both NH [REP10-095] in their final SoCG and Suffolk County Council (SCC) in their initial SoCG [REP2-076] agreed the strategic and junction modelling. The ExA requested clarification on a number of junction modelling outputs in ExQ1 [PD-022]. The Applicant [REP2-100] and SCC [REP2-192] responded resolving concerns with respect to junction assessments contained in the TA. Having examined all the submitted modelling information and the responses from SCC and NH, the ExA considers [ER 5.22.179] that the Applicant has undertaken a satisfactory assessment of the likely traffic impacts of the Proposed Development. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.640 In addition to the modelling undertaken in the TA [ER 5.22.180] a number of related issues have been addressed through the Examination. The Applicant confirmed that it had agreed a suitable contribution with SCC concerning A12 improvements, which would be secured in Schedule 16 of the DoO [REP10-075]. The ExA agrees [ER 5.22.183 et seq.] with the Applicant and SCC that due to safety concerns when AIL were passing through the Yoxford roundabout junction the roundabout should be retained permanently. The ExA reports [ER 5.22.186 et seq.] that in addition to the levels of development traffic, the selection of route choice was a significant concern for numerous IPs, including

the potential for traffic relating to the Proposed Development to use less suitable routes should there be congestion on the A12. The ExA asked at ExQ1 [PD-022] about workers and other traffic related to the Proposed Development using less suitable routes. The Applicant [REP2-100] stated that all HDV will operate on defined routes controlled in accordance with the CTMP and secured in the DoO. Other LGV will be managed by the Delivery Management System with other monitoring of traffic routes the subject of review by the Transport Review Group overseeing both the CTMP and the CWTP.

- 4.641 In ExQ3 [PD-049] the Applicant provided additional clarity in the CTMP and CWTP as to how concerns from local residents and groups about rat running can be escalated to the TRG for action. SCC confirmed it is satisfied with this approach [REP8-180]. In Schedule 16 of the DoO [REP10-077] the Applicant proposes a number of schemes to address concerns about vehicle routing including B1078 and Wickham Market safety improvements. The ExA accepts that the issue could give rise to local concerns and that traffic modelling may not fully represent traffic patterns on all days during construction [ER 5.22.191 et seq.]. The ExA considers that the Applicant is proposing a suitable approach for managing freight movement and worker travel and that there would not be any additional impacts that would not be managed or mitigated by the Applicant's approach. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.642 Kelsale-cum-Carlton Parish Council [RR-0655] and a number of other IPs suggested that the Applicant should have assessed seasonal effects of traffic more accurately. At ExQ1 [PD-022] and ISH2 [EV-086 to EV-089] the ExA investigated this, and the Applicant responded in detail concerning the variations in traffic between the assessment period in the TA and the highest seasonal traffic flows in August. The ExA is satisfied that the industry standard approach of undertaking traffic assessment in neutral months is acceptable whilst noting there may be limited occasions where traffic levels may vary from the assessment month [ER 5.22.194]. The Secretary of State agrees with the ExA's conclusions on this matter.
- 4.643 The Secretary of State has received post Examination correspondence from SCC on the A12 MRN Improvement Scheme that accounts for Sizewell C impacts. The Secretary of State notes that SCC seek to alleviate some of the pressure that the Proposed Development would place on the existing road system and he also notes that A12 corridor improvements are accounted for in the DoO, consequently, he places no further weight on this representation in his considerations.

*Environmental Assessment of Traffic Effects*

- 4.644 The ExA report [ER 5.22.195 et seq.] that numerous IPs expressed concerns, in particular related to the impacts during the early years when work would be started on the MDS but the mitigation offered by the Associated Development Sites would not be operational.
- 4.645 The ExA raised the Early Years impacts on the B1122 in ExQ1 [PD-022]. The ExA considered the transport impacts at ISH3 [EV094 to EV-097] and following on from the hearing and ongoing discussions with SCC the Applicant submitted

an updated ES transport addendum at DL7 [REP7-030]. SCC [REP8-179] confirmed that the methodology is acceptable, subject to agreeing the separate Implementation, Monitoring and Management Plans. The fourth ES Addendum [REP7-030] identifies a number of mitigations, secured in Schedule 16 of the DoO [REP10-077], including management works and highway improvements.

- 4.646 The ExA notes [ER 5.22.199 et seq.] that concerns over the Early Years transport impacts of the Proposed Development in advance of both the SLR and the TVB being open remain, and that the proposed Early Years cap level of HGV remains at 300 deliveries (600 two-way movements), and now includes buses and water tankers. The Early Years will be a much more intensive period than most of the peak construction period when HDV traffic will not be using the B1122. The ExA notes that the fourth ES transport addendum [REP7-030] has addressed most of the concerns SCC had about the approach to the assessment of the transport impacts [ER 5.22.207]. However, outstanding concerns about how the Applicant has addressed the issue of fear and intimidation for non-motorised users along the B1122 remain.
- 4.647 The Institute of Environmental Management and Assessment (“IEMA”) Guidance has been used as the basis for the Applicant’s assessment of transport effects [ER 5.22.208 et seq.]. The Applicant’s final position was the IEMA Guidance only refers to the thresholds for change on average speed for assessment of fear and intimidation. The ExA considered this to be too narrow an interpretation of the overall approach, and actual traffic speed along a road should be considered in the overall assessment of magnitude [ER 5.22.211]. The criterion for assessment includes: average traffic levels; average HGV proportion; and average vehicle speeds which can be weighed to give an overall score of fear and intimidation corresponding to particular combinations of traffic flow, speed and composition. The ExA considers that the Applicant has considered the factors affecting the degree of magnitude individually not as the IEMA guidance suggests as a weighted consideration of all of the traffic factors but as three separate factors which must all be met in order to change the magnitude. In this case, all existing roads assessed for fear and intimidation are said to have very low impacts. The ExA further considers that the Applicant has not considered proximity to traffic, for example, due to narrow footways, which is also recommended in the IEMA Guidance [ER 5.22.214]. The ExA concludes that the Applicant’s approach has not adequately identified the likely significant effects on fear and intimidation related to the significant increases in both traffic and HDVs on the more sensitive sections of both the A12 and B1122. The ExA’s view [ER 5.22.215] is that a more balanced view in line with the IEMA Guidance would change the magnitude of impacts on sections of the A12 and B1122 through the villages along the routes in the early years. The Secretary of State has considered the ExA’s position that this would change the Applicant’s assessment of transport effects to a combination of moderate and major adverse and would introduce significant effects not accounted for in the Applicant’s assessment. The Secretary of State agrees with the ExA’s position on this matter and has considered this in his overall conclusion set out below.
- 4.648 Schedule 16 of the signed DoO secures mitigation improvements agreed with the Councils [ER 5.22.216]. Annex Q of the DoO [REP10-082] has indicative

plans of the B1122 early years scheme. The ExA reports that while these indicative improvements have been accepted by the Councils, they do not offer relief from the fear and intimidation created by the substantial increase in HDV along the B1122. The indicative plans in Annex Q also show there may be a need to widen the B1122 at two points to enable HGVs to pass each other. The ExA consider [ER 5.22.217] this provides further evidence of the current unsuitability of the B1122 as a route for significant HDV use. In addition, road widening may increase HDV speeds along the B1122.

- 4.649 The ExA notes [ER 5.22.220] similar problems would occur on the A12 through Yoxford in the early years and the limitations of the Farnham bend remain throughout the early years. It notes that in Schedule 16 of the signed DoO [REP10-077] the Applicant would not be required to implement a number of improvement schemes prior to commencement of development. The Secretary of State notes that the improvement schemes must be submitted to and approved by SCC in accordance with the Local Transport Programme and any amendments agreed with the Local Transport Group. The Local Transport Programme must be submitted and agreed with SCC at least three months before commencement. He agrees with the ExA however that the DoO does not secure implementation of the mitigations in advance of commencement so cannot be assured they will be in place to mitigate the impacts identified [ER 5.22.222].
- 4.650 The ExA concludes [ER 5.22.223] that the SLR is required in advance of any significant start on the MDS which was discussed in detail within the Examination. The Applicant considers that the urgency of the Proposed Development by 2035 is of extreme importance and from a national perspective needs to be judged against the short-term impact on the B1122. Despite this the ExA considers that the transport impacts on the B1122 would not be adequately addressed by the Applicant's proposed mitigations: in the case of the B1122 the short term impact would be around two years and nine months. The ExA ascribes substantial weight to the transport effects on the B1122 in the Early Years against the making of the order without an alteration to the phasing of the SLR.
- 4.651 Noting the ExA's conclusion that the SLR is required in advance of the commencement of MDS works [ER 5.22.223], on 18 March 2022, the Secretary of State requested further information from the Applicant regarding the appropriate mechanism to secure the delivery of the SLR and TVB in advance of the commencement of Phase 1 works on the MDS, with consideration given to the effects of HDV movements on the B1122.
- 4.652 The Applicant set out in their response dated April 2022 that a requirement could theoretically be imposed stating that, notwithstanding the terms of the CMS, the two roads must be delivered in advance of the commencement of Phase 1 works on the MDS. However, the Applicant considers that revision to the CMS or a new requirement giving effect to this revised sequence could not safely be imposed without undertaking fresh transport and environmental assessments, because the consequences of a sequence which sees the main development site works deferred for two or three years whilst the road scheme proceed in isolation have not been assessed. Delay would be necessary

therefore to any DCO decision whilst the work was undertaken and consulted on. It could be expected there would be significant public interest in an outcome which extended the overall construction programme by two to three years. Even if the development was deliverable in that sequence, the effect would be significant delay to the delivery of the project. The Applicant considers this would have a direct commensurate impact on the operational dates of the Units and would cause practical issues for procurement and consenting, and construction and costs would rise. They further consider that any significant delay would be directly inconsistent with up-to-date Government policy which is clear that new nuclear projects must be delivered urgently, and would be contrary to the powerful public interest considerations which lie behind that policy.

- 4.653 In addition, the Applicant noted that a number of control mechanisms and timings have been put in place including the Construction Method Statement (“CMS”) which shows that Phase 1 works on the MDS are programmed to commence in quarter 1 2023. The SLR and TVB are both programmed to commence in quarter 1 2023 and to complete in quarter 4 2024. In summary, deferring Phase 1 commencement so that it follows the completion of the two roads would put the construction of the power station back two years, although there would be further complications which are considered in their letter, including the urgency for new nuclear, practical difficulties and the appropriateness of enforced delay taking into account the effects and mitigations and viability and delivery concerns.
- 4.654 In consideration of control mechanisms, the Applicant’s letter draws attention to the CMS which contains backstop dates for the SLR and the TVB which were negotiated and agreed with the local authorities, and which require the roads to be in use either within 6 months of the commencement of the Phase 3 (Main Civils) or before the start of the Phase 3 installation of the reactor building liner, whichever is the sooner (unless otherwise agreed with ESC). The Phase 3 works are shown to commence in quarter 3 2025. If it was necessary for any reason to take the whole period up to the backstop date to complete the road, the construction of the power station could not then start until quarter 1 2026, a delay of three years.
- 4.655 The CMS secured by Requirement 13 contains control mechanisms and timings derived and agreed from detailed engagement with ESC and SCC in light of a close understanding of the construction programme. The Applicant states that both Councils were fully aware of the effects of HDV’s on the B1122 and of the short-term and longer term measures to which the Applicant has committed to mitigate those effects.
- 4.656 The urgency and importance of new nuclear and its policy position is set out by the Applicant in Appendix A of the Planning Statement update [REP2-043], the Planning Statement Final Update and Signposting document [REP10-068] submitted at the close of the Examination and in documents referenced throughout the Examination including the Planning Statement [APP-590], Planning Statement Update [REP2-043], New Nuclear: Need and Urgency [REP5-117] and in responses to the ExA’s second written questions [REP7-056] and post hearing submissions [REP7-102]. Following the close of the

Examination in October 2021, the Applicant reports that the urgency has increased, including the publication of the Net Zero: Building Back Better strategy on 19 October 2021 and consistent with this, the Government most recently announced intention to update the national energy strategy with a renewed emphasis on new nuclear power. The Secretary of State has considered need further in the relevant section of this decision letter including in relation to the British Energy Security Strategy (BESS) and other relevant documents.

- 4.657 Other issues include practical difficulties including the reuse of material won from the SLR and TVB on the Main Development Site with consequences for procurement and contractor preparation. The Applicant considers that the project has been planned and environmentally assessed on the basis of a sequence of events captured in the Implementation Plan and the Construction Method Statement with consequences for both Environmental and Transport Assessments and other application documents. They consider that the delay consequences are significantly more than the two or three years deferral of the MDS construction.
- 4.658 The Secretary of State notes the Applicant's reference to viability and delivery of the project, whilst he considers this information to be limited in detail, he does not disagree with the Applicant's position that the proposed development has been carefully sequenced, planned and programmed so that it can be delivered economically and efficiently in view of the critical nature of the project. The significance of imposing an alternative delivery sequence at this stage, would add to the construction timetable and significantly disrupt the build programme.
- 4.659 The Secretary of State has given careful consideration to the concerns raised by IPs related to transport impacts on local communities. They included the cumulative impacts and residual effects of construction, worker and freight movements in the Early Years from the Proposed Development on the existing road network from local groups and residents including Theberton & Eastbridge PC, Middleton cum Fordley PC, Stop Sizewell C, B1122 Action Group and Minsmere Levels Stakeholders Group, SAGE, St Peters Church, Sudbourne PC, TASC, Walberswick PC, Woodbridge PC and Yoxford PC.
- 4.660 The Secretary of State has considered the information provided by the Applicant and its position that the delivery of the SLR in advance of construction would delay the delivery of the construction programme and overall project. Given the critical nature of the delivery of the Proposed Development, the Secretary of State is persuaded by the Applicant's position in their response that the impacts in the Early Years would be for a time limited period (relative to the whole construction programme) and for the reasons set out has therefore decided not to follow the ExA's recommendation that the SLR is provided in advance of construction.

#### *Monitoring, Review and Control*

- 4.661 The ExA notes [ER 5.22.225 et seq.] that the control documents secured as part of the DoO are a key element of the management of both the freight and worker transport strategies which include the CTMP; CWTP and TIMP [REP10-082]. All plans would be overseen by the TRG. The ExA [ER 5.22.230]



concludes that with the amendments that include the issues of governance and dispute resolution that the TRG would be an effective overseeing body. The Secretary of State, having considered the various representations and concerns raised on issues of governance, agrees with the ExA's conclusions on this matter.

- 4.662 The CTMP is the means of ensuring control of the road-based element of the Applicant's freight management approach. The ExA notes [ER 5.22.233] that the CTMP in the signed DoO [REP10-082] sets out the agreed position with respect to all outstanding concerns about the scope and coverage of capped HDV movement. Suffolk Constabulary in their SoCG [REP10-106] confirm that agreement has been reached about the AIL escorting matrix included in the final CTMP. The ExA concludes [ER 5.22.234] that the final CTMP represents a realistic means of monitoring and controlling freight movement by road.
- 4.663 The CWTP is the travel plan for the construction workforce and provides details required for the management of worker travel behaviour and encourages sustainable mode choice for non-work travel by the construction workforce. It relies [ER 5.22.236] on the effective control of parking locations and would limit car movements to those identified in the TA. In ExQ1 [PE-022] the ExA [ER 5.22.237] raised the discrepancy between the number of employees in the TA early years traffic modelling undertaken compared to the CWTP. At [REP2-100] the Applicant explains that when MDS workforce numbers approach 1500 that would be at the stage when one of the remote park and rides would be opening which would be an effective control to ensure during the early years car travel to the MDS would not exceed the modelled flows in the TA.
- 4.664 The Applicant [REP7-055] provided clarifications about how the mode share targets could be met through the control of parking, which includes an amended Requirement 8 of the draft Order, to limit MDS parking to 650 in the early years and after opening of a park and ride site to 1000; and Requirement 8 of the draft Order (now requirement 13) to build and use car parking in accordance with the Construction Method Statement. The ExA concludes [ER 5.22.241] that the worker transport approach set out in the CWTP would be an effective way of controlling worker traffic and notes that the joint Councils have signed the DoO [REP10-082] that contains the final CWTP.
- 4.665 The ExA notes [ER 5.22.242 et seq.] that the TRG has an overall monitoring and review function for all three of the above plans. In particular to the CTMP and the CWTP the plans include details of the Contingent Effects Fund ("CEF"). The CEF would be available in the event that significant adverse transport effects arise that were not mitigated through projects secured in either the Order or the DoO. The CEF is secured in the signed DoO [REP10-077] and the Annex O in the DoO [REP10-082] includes a list of potential effects and potential mitigations. The ExA agrees [ER 5.22.244] in general terms with this approach but not in relation to the adverse effects of the early years traffic impacts on sections of the B1122, which would not be mitigated by the relatively minor interventions the CEF it is designed to deliver.
- 4.666 The TIMP sets out the management of the construction traffic during an event or incident occurring on the HDV routes to the MDS, and the measures

intended to minimise potential impacts of traffic associated with the Proposed Development construction on response times and delivery of emergency services in the event of an incident. The Applicant confirmed that the TIMP is intended to set out protocols about the nature of the incident that would activate the TIMP including communication and coordination between the transport authorities and the emergency services. A final version of the TIMP is included at Appendix M of Schedule 16 of the signed DoO [REP10-082]. The ExA is satisfied [ER 5.22.248] that the Applicant has provided a realistic plan to deal with incidents that would affect the movement of HDV associated with the Proposed Development. The Secretary of State agrees with the ExA's conclusions on this matter.

#### *Control of Delivery of Associated Development Sites*

- 4.667 The ExA notes [ER 5.22.249 et seq.] that SCC [REP2-189] expressed concerns about the timing of delivery of the Associated development sites to ensure that the freight management strategy could be realised. Other IPs shared concerns over the timely delivery of the required rail, marine and road improvements. This was discussed at ISH2 [EV-086 to EV-089]. The Implementation Plan [REP2-044] showed indicative timing for delivery for key elements of the project including the AD sites. The ExA notes that the final version of the CMS [REP10-025] in section 2.1 contains trigger points for the delivery of key elements of the freight/transport management strategy linked to the phases of development. The draft Order [REP10-009] in Requirement 13 (1) states that construction works undertaken at the AD sites must be carried out in accordance with the CMS. The ExA concludes [ER 5.22.251] it is satisfied this mechanism would secure timely delivery of the key elements of the freight/transport strategy. The Secretary of State agrees with the ExA's conclusions on this matter.

#### *Conclusion on Traffic and Transport*

- 4.668 Paragraph 5.13.10 of NPS EN-1 highlights the preference for water-borne or rail transport at all stages of the project. The ExA considers [ER 5.22.252 et seq.] that the changes submitted by the Applicant prior to the start of the Examination to change the mode shares to 40% by road and 60% by rail and sea is better aligned to the emphasis in NPS EN-1 with respect to freight movement and is an important consideration given the relatively remote location of the Proposed Development and the nature of the local highway network [ER 5.22.252].
- 4.669 The ExA states [ER 5.22.253] it is generally content that the Applicant has properly assessed the likely significant effects resulting from the Proposed Development and where required proposed suitable mitigation. It also considers that the proposed approach to monitoring, review, and control of traffic movements is suitably secured in the DoO and the requirements of the draft Order.
- 4.670 The ExA has [ER 5.22.255 et seq.] concerns relating to the SLR. It accepts there is a demonstrated need for a relief road for the traffic along the B1122 during the construction of the Proposed Development. However, it has found that the route selection did not fully take into account the issues relating to

transport sustainability. The Secretary of State notes the ExA considers that it is regrettable that the Applicant did not consider these wider transport factors in more detail in the route selection process. The ExA also considers the Applicant's approach to the residual adverse effects in relation to the Early Years assessment of traffic in advance of the construction of the SLR and TVB is not sufficient to address those effects which it considers are significant. Despite the Applicant's change from 61% to 40% by road just prior to the start of the Examination the ExA consider that this makes no difference to anticipated HDV levels in the Early Years [ER 5.22.258]. The ExA considers [ER 5.22.260] that the SLR should be in place in advance of commencement on the site due to the transport impacts along the B1122 for a period of up to two years and nine months.

- 4.671 As set out above, the Secretary of State requested further information regarding the appropriate mechanism that could secure the delivery of the SLR and TVB in advance of the commencement of Phase 1 works on the MDS in order to satisfy himself that the adverse effects on the B1122 in the Early Years could be appropriately considered. Having reviewed the further information provided by the Applicant in response to his letter, the Secretary of State has considered, the Applicant's assessment of the case and that requiring these works to be delivered before the Phase 1 works on the MDS would defer the critical delivery of the project. He has carefully considered the significant number of concerns raised by IPs and RRs in response to his letter of 25 April 2022 which invited comments on this matter including early years impacts on the B1122 and in the wider area. In consideration of the consultation responses submitted to him and the ExA's findings the Secretary of State agrees with the ExA's conclusion on the magnitude of impacts on sections of the A12 and B1122 through the villages along the routes in the early years.
- 4.672 The Secretary of State agrees that substantial weight to the transport effects on the B1122 in the Early Years should be ascribed against making the Order.
- 4.673 The ExA [ER 5.22.261] recommended that the Secretary of State establish certainty of the delivery of the upgrade of the Darsham A12 level crossing. The Secretary of State requested further clarity in the event that CP7 funding is not secured by NR that the Applicant agrees to meet the full costs of the necessary improvements. The Secretary of State has considered NR's response to his question and the ExA's position at [ER 5.22.262] including the Framework entered into with NR, and is satisfied that this has been addressed.
- 4.674 The ExA concludes [ER 5.22.263] that taking all matters into account that the transport impact of the Proposed Development would be negative, even allowing for the mitigations secured in the Order and DoO. For the reasons given above the Secretary of State has decided not to follow the ExA's recommendation that the SLR is provided in advance of construction. On the basis that an alternative phasing of the SLR and the TVB is not proposed, the Secretary of State agrees with the ExA there is substantial weight relating to transport issues against the making of the Order. This is considered further in the overall planning balance within this letter.

## Waste (Conventional) and Material Resource

- 4.675 The ExA notes the relevant policy considerations for conventional waste and material resources set out in NPS EN-1 [ER 5.23.2 et seq.]. The ExA notes that radioactive waste is considered in the radiological considerations section of the ExA Report [ER 5.23.1], and that approach is followed in this decision letter.
- 4.676 ES Chapter 8 on conventional waste and material resources presents an assessment of the material resource use and conventional waste generation effects arising from the construction and operation of the MDS and associated development sites. The ExA notes that this assessment did not consider waste and material types and quantities for the decommissioning of the proposal, and that arrangements for the decommissioning process would be refined periodically, with a Decommissioning Waste Management Plan development in line with existing regulatory requirements, prior to commencement of decommissioning [ER 5.23.9]. Appendix 8A to ES Chapter 8 which details the waste management strategy sets out the key principle of waste being managed in accordance with the waste hierarchy [ER 5.23.61].
- 4.677 The ExA notes that an assessment was provided of the material resource requirements of the proposal [ER 5.23.10], and that implementation of mitigation measures would allow the efficient use of material resources on-site, including the intention to use site-won material for the required fill material for the earthworks [ER 5.23.11].
- 4.678 With regard to the generation and management of waste, the Applicant considered it was not possible to fully determine the precise quantities of excavated material that would be deemed unacceptable for re-use on-site, but this is expected to be minimal, with a minor adverse effect on the capacity of landfill sites to accept non-hazardous excavation material, which is considered to be not significant [ER 5.23.25]. It was considered possible that a small fraction of excavated material would be contaminated, but it is unlikely that large volumes of hazardous waste would be generated from the earthworks phase given that most of the MDS and associated development sites have no history of previous development.
- 4.679 The Applicant sets out that the waste can be divided into the three broad categories of inert [ER 5.23.28 et seq.], non-hazardous [ER 5.23.33 et seq.] and hazardous [ER 5.23.36 et seq.]. The majority of the municipal solid waste from the MDS is anticipated to be re-useable, recyclable or recoverable [ER 5.23.40], with the magnitude of effect on waste management capacity being minor, with the effect considered to be not significant. The magnitude of effect on landfill capacity to accept inert waste [ER 5.23.32], organic waste [ER 5.23.46] and commercial and industrial waste [ER 5.23.43] was assessed as negligible and not significant. The magnitude of effect on landfill capacity to accept non-hazardous waste was assessed to be minor and not significant [ER 5.23.35]. The effect on landfill capacity to accept hazardous waste during the construction phase [ER 5.23.39] was assessed as minor and not significant, and during the removal and reinstatement phase was assessed as negligible and not significant [ER 5.23.59].

- 4.680 The ExA notes that IPs raised concerns about the impacts of soil heaps, borrow pits and building detritus on the AONB and whether the proposal is a good use of scarce resource [ER 5.23.64 et seq.]. The EA expressed concerns that targets and KPIs for waste and resource management had not been included in the Conventional Waste Management Strategy, and wanted to see clearly identified targets as set out in both UK and European legislation. The ExA notes that the Applicant submitted a WMS Addendum including targets and also included the commitment for quarterly monitoring of this KPIs [ER 5.23.69 et seq.]. The SoCG with the EA confirms it was satisfied that its concerns had been addressed.
- 4.681 The ExA notes that the Applicant is not proposing to transport surplus waste created by the Proposed Development by sea, and that consequently transboundary issues relating to the disposal of conventional waste are not foreseen [ER 5.23.75].
- 4.682 Overall, the ExA concludes the submissions made by the Applicant and subsequent additions of measurable targets within the Waste Management Strategy represent an effective approach to waste management and considers the Applicant has addressed the effects relating to conventional waste in accordance with the relevant policies within NPS EN-1 [ER 5.23.77]. The ExA considers that no matters relating to the issue of conventional waste weigh for or against the making of the Order [ER 5.23.78]. The Secretary of State agrees with the ExA's conclusions on this matter.

## **5 Findings and Conclusions in Relation to Habitats Regulations Assessment**

- 5.1 In the UK, the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) apply as far as the 12 nautical miles (“nm”) limit of territorial waters. Beyond territorial waters, the Conservation of Offshore Marine Habitats and Species Regulations 2017 (“the Offshore Habitats Regulations”) serve the same function for the UK’s offshore marine area.
- 5.2 Following the UK’s departure from the European Union, these domestic regulations continue to apply. The Secretary of State notes the Application has the potential to affect sites within and beyond the 12nm limit. Any reference to the “Habitats Regulations” will include the Offshore Regulations as the context requires.
- 5.3 The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation (“SACs”). They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the UK and internationally. These sites are called Special Protection Areas (“SPAs”). SACs and SPAs together form part of the UK’s National Site Network (“NSN”) (collectively referred to here as “Protected Sites”).
- 5.4 The Convention on Wetlands of International Importance 1972 (“the Ramsar Convention”) provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the United Kingdom the same protection as sites within the NSN.

- 5.5 Candidate SACs (“cSACs”), SACs and SPAs are afforded protection as NSN sites. As a matter of policy the Government affords potential SPAs (“pSPAs”) the same level of protection.
- 5.6 Regulation 63 of the Conservation of Habitats and Species Regulations 2017 provides that: “...before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) *is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.*”
- 5.7 And that: “*In the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).*”
- 5.8 Regulation 28 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 contains similar provisions: “*Before deciding to undertake, or give any consent, permission or other authorisation for, a relevant plan or project, a competent authority must make an appropriate assessment of the implications of the plan or project for the site in view of that site’s conservation objectives.*”
- 5.9 And that: “*In the light of the conclusions of the assessment, and subject to regulation 29 (considerations of overriding public interest), the competent authority may agree to the plan or project only if it has ascertained that it will not adversely affect the integrity of the European offshore marine site or European site (as the case may be).*”
- 5.10 This Proposed Development is not directly connected with, or necessary to, the management of a Protected Site. The Habitats Regulations require that, where the project is likely to have a significant effect (“LSE”) on any such site, alone or in-combination with other plans and projects, an appropriate assessment (“AA”) is carried out to determine whether the project will have an adverse effect on the integrity (“AEol”) of the site in view of that site’s Conservation Objectives.
- 5.11 Where an adverse effect on the integrity of the site cannot be ruled out, the Habitats Directive provides a derogation under article 6(4) which allows such plans or projects to be approved provided three tests are met:
- There are no feasible alternative solutions to the plan or project which are less damaging.
  - There are “imperative reasons of overriding public interest” (“IROPI”) for the plan or project to proceed.
  - Compensatory measures are secured to ensure that the overall coherence of the network of European sites is maintained.

- 5.12 The above tests, which are set out in both the Habitats Regulations and the Offshore Habitats Regulations, must be interpreted strictly and developments which may result in an adverse effect on the integrity of a European Site can only be authorised once the above tests have been met.
- 5.13 The complete process of assessment is commonly referred to as a Habitats Regulations Assessment (“HRA”). While noting that it is for the Secretary of State to carry out the HRA, the ExA concluded:
- That adverse effects on the integrity of the marsh harrier feature of the Minsmere-Walberswick SPA and Ramsar site could not be excluded because of noise and visual disturbance from construction activities from the Proposed Development alone;
  - That there is insufficient evidence to recommend that an adverse effect on integrity of the following protected sites and qualifying features can be excluded beyond all reasonable scientific doubt:
    - breeding and non-breeding gadwall and shoveler features of the Minsmere-Walberswick SPA and Ramsar site because of noise and visual disturbance from construction activities; and
    - all features of the Minsmere-Walberswick Heaths and Marshes SAC, Minsmere-Walberswick SPA and Ramsar, and Sandlings SPA because of changes in air quality during construction and operation.
  - That there are also a number of sites and features for which the ExA considers a conclusion of adverse effects on integrity could be reached, but that the Secretary of State may wish to satisfy himself on final outstanding matters before reaching his conclusion; and
  - That, in view of the uncertainty around the permanent water supply solution, the ExA cannot preclude the potential identification of AEoI on protected sites and qualifying features during construction and operation of the Proposed Development, either alone (if considering the solution such as the preferred pipeline/transfer main as part of the project) or in combination with solutions such as the preferred pipeline/transfer main. The ExA considered that it did not have sufficient information or certainty and advised that the information required to inform the HRA is incomplete in this regard.
- 5.14 The ExA concluded that the compensatory measures proposed were sufficient to ensure the integrity of the National Site Network is maintained. However, it considered it necessary for the wetland element of habitat creation to be in place and functional prior to construction.
- 5.15 The Secretary of State’s HRA is published alongside this letter. The following paragraphs, which summarise the HRA, should be read alongside the HRA which is the full statement of the Secretary of State’s consideration of these matters.
- 5.16 Likely Significant Effects Test
- 5.17 The Secretary of State has carefully considered the information presented before him and during the Examination, including the Report on the Implications for European Sites (“RIES”), the Environmental Statement, representations made by Interested Parties, and the ExA’s Report itself. He considered that the

Proposed Development had the potential to have an LSE on 19 NSN sites when considered alone and in-combination with other plans or projects. These sites are listed below:

- Alde-Ore and Butley Estuaries SAC;
- Alde-Ore Estuary SPA;
- Alde-Ore Estuary Ramsar;
- Benacre to Easton Bavents Lagoons SAC;
- Benacre to Easton Bavents SPA;
- Deben Estuary SPA;
- Deben Estuary Ramsar;
- Dew's Pond SAC;
- Humber Estuary SAC;
- Minsmere-Walberswick Heaths and Marshes SAC;
- Minsmere-Walberswick SPA;
- Minsmere-Walberswick Ramsar;
- Orfordness to Shingle Street SAC;
- Outer Thames Estuary SPA;
- Sandlings SPA;
- Southern North Sea SAC;
- Stour and Orwell Estuaries SPA;
- Stour and Orwell Estuaries Ramsar; and
- The Wash and North Norfolk Coast SAC.

#### Appropriate Assessment

5.18 The Secretary of State has undertaken an AA in respect of the conservation objectives of the sites to determine whether the Proposed Development, either alone or in-combination with other plans or projects, will result in an adverse effect on the integrity of the above sites. The Secretary of State's HRA contains a full summary of his conclusions in relation to these sites.

5.19 The Secretary of State has considered the available information, including the mitigation measures secured through the Order and DML, and has concluded that the Proposed Development will not have an adverse effect on integrity on the following 17 sites:

- Alde-Ore and Butley Estuaries SAC;
- Alde-Ore Estuary SPA;
- Alde-Ore Estuary Ramsar;
- Benacre to Easton Bavents Lagoons SAC;
- Benacre to Easton Bavents SPA;
- Deben Estuary SPA;
- Deben Estuary Ramsar;
- Dew's Pond SAC;
- Humber Estuary SAC;
- Minsmere-Walberswick Heaths and Marshes SAC;
- Orfordness to Shingle Street SAC;
- Outer Thames Estuary SPA;



- Sandlings SPA;
- Southern North Sea SAC;
- Stour and Orwell Estuaries SPA;
- Stour and Orwell Estuaries Ramsar; and
- The Wash and North Norfolk Coast SAC.

- 5.20 The Secretary of State concurs with the Applicant, NE and the ExA that an AEol integrity cannot be ruled out beyond reasonable scientific doubt in relation to alone impacts on breeding marsh harrier of the Minsmere-Walberswick SPA and Ramsar from noise and visual disturbance during construction.
- 5.21 The Secretary of State has assessed the material presented during the Examination including representations made by IPs, the recommendation of the ExA, and all relevant post-Examination representations and information received. Regarding the effects from changes to water quality, and without prejudice to the subsequent EP process, the Secretary of State concludes that an AEol of protected sites can be excluded. In accordance with the policies set out in EN-1 and EN-6, the Secretary of State has no reason to believe that an environmental permit will not be granted and in reaching his conclusion the Secretary of State is confident that the impacts of changes to water quality will be assessed by the EA as part of their permitting process, and that pollution mitigation and control measures will be secured through this process to prevent an AEol of protected sites. Furthermore, potentially harmful activities cannot commence until the relevant licences have been issued.
- 5.22 The Secretary of State has assessed the material presented during the Examination including representations made by IPs, the recommendation of the ExA, and all relevant post-Examination representations and information received. Regarding the effects from changes to air quality, and without prejudice to the subsequent EP process, the Secretary of State concludes that an AEol of protected sites can be excluded. In accordance with the policies set out in EN-1 and EN-6, the Secretary of State has no reason to believe that an environmental permit will not be granted and in reaching his conclusion the Secretary of State is confident that the impacts of changes to air quality will be assessed by the EA as part of their permitting process, and that pollution mitigation and control measures will be secured through this process to prevent an AEol of protected sites. Furthermore, potentially harmful activities cannot commence until the relevant licences have been issued.
- 5.23 Following the Applicant's provision of additional winter survey data to support baseline data for breeding and non-breeding gadwall and shoveler, the Secretary of State concluded that there would be no AEol of the Minsmere-Walberswick SPA and Ramsar from the effects of disturbance on gadwall and shoveler from the Proposed Development alone and in combination with other plans or projects during construction.
- 5.24 In reaching this conclusion, the Secretary of State has given consideration to Chapman and Tyldesley (2016)<sup>13</sup> which, in respect to how functionally linked land should be taken into account within an HRA, states "... *that assessment*

---

<sup>13</sup> <http://publications.naturalengland.org.uk/publication/6087702630891520>

*will need to determine how critical the area may be to the population of the qualifying species and whether the area is necessary to maintain or restore the favourable conservation status of the species.”* He notes the spatial distribution of gadwall and shoveler on functionally linked land and does not consider the SPA population to be dependent on the functionally linked land for nesting or foraging. The Secretary of State considers the functional linkage to be concerned with the occurrence of birds on habitats outside of the SPA and that other areas of supporting habitat outside the SPA are available, should birds be displaced.

- 5.25 The Secretary of State concludes that he can be assured that any potential effects associated with changes to marine water quality and changes to air quality will be controlled by the EA’s EPs as the activities leading to these pathways are dependent on EPs being approved for activities to commence.

#### Consideration of Further Tests under the Habitats Regulations

- 5.26 The Secretary of State concludes that an adverse effect on integrity cannot be ruled out beyond reasonable scientific doubt in relation to:
- Alone impacts on the marsh harrier feature of the Minsmere-Walberswick SPA and Ramsar site from noise and visual disturbance from construction activities from the Proposed Development.
- 5.27 The Secretary of State has not identified any further mitigation measures that could reasonably be imposed which would avoid or mitigate the potential AEol identified and has therefore proceeded to consider the derogation provisions of the Habitats Regulations.
- 5.28 The Secretary of State has reviewed the Proposed Development in the context of Regulations 64 and 68 of the Conservation of Habitats and Species Regulations to determine whether it can be consented.
- 5.29 Consent may only be given under Regulation 64 of the Habitats Regulations where no alternative solutions to the project are available which are less damaging to the affected European site and where Regulation 68 is satisfied.
- 5.30 Regulations 64 of the Habitats Regulations allow for the consenting of a project even though it would cause an adverse effect on the integrity of a European site if it is required for Imperative Reasons of Overriding Public Interest (“IROPI”).
- 5.31 Regulations 68 of the Habitats Regulations require the appropriate authority to secure any necessary compensatory measures to ensure that the overall coherence of the National Site Network is protected.
- 5.32 In accordance with guidance on the application of HRA published by the Planning Inspectorate (Advice Note 10) and DEFRA, the Secretary of State reviewed the Proposed Development following a sequential process, considering:
- Alternative solutions to the Proposed Development that have been sought;

- Whether there are IROPI for the Proposed Development to proceed; and
- Compensation measures proposed by the Applicant for ensuring that the overall coherence of the National Site Network is protected have been assessed.

### Alternative Solutions

5.33 Following a review of the information submitted by the Applicant and comments provided by IPs, as well as the recommendation of the ExA, and having identified the objectives of the Proposed Development and considered all alternative means of fulfilling these objectives, the Secretary of State is satisfied that no alternative solutions are available that would meet the Proposed Development's objectives and which would result in a lesser effect on the Minsmere-Walberswick SPA and Ramsar to that predicted to occur as a result of the Proposed Development, and that IROPI must be considered.

### Imperative Reasons of Overriding Public Interest

5.34 The Secretary of State has satisfied himself of the outstanding matters raised in relation to AEol and is satisfied that there are IROPI for the Proposed Development to proceed subject to adequate compensatory measures being implemented. In arriving at his decision, the Secretary of State has reviewed how the Proposed Development provides a public benefit which is essential and urgent despite the harm from the Proposed Development alone to the integrity of the breeding marsh harrier feature of the Minsmere-Walberswick SPA and Ramsar.

5.35 The Secretary of State's decision is predicated by the principal and essential benefit of the Proposed Development as a significant contribution to limiting the extent of climate change in accordance with the objectives of the Paris Agreement.

### Compensatory Measures

5.36 The Applicant's Compensation Measures report described a proposed marsh harrier compensatory habitat area (the MHCHA) of 48.7ha in size, on land at Abbey Farm located immediately adjacent to the northern part of the Minsmere South Levels [APP-148]. The proposed MHCHA is aimed at increasing the foraging habitat resource available to breeding marsh harrier during construction, via habitat management of arable land, to increase both the abundance and availability of a range of potential prey species.

5.37 NE and RSPB/SWT considered that it was necessary for the wetland element of the MHCHA to be in place and functional prior to the onset of disturbance to marsh harrier from construction impacts. The ExA agreed with this conclusion and recommended that the timing of the wetland habitat element of habitat creation should be brought forward to ensure it is in place prior to construction.

### The Examining Authority's Conclusions

- 5.38 The ExA was satisfied that there are no alternative solutions which would deliver appreciable benefits in terms of adverse effects on marsh harrier of the Minsmere-Walberswick SPA and Ramsar from noise and visual disturbance during construction and still meet the objectives of 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 ExA found that the compensatory measures proposed at Abbey Farm within the EDF Energy estate (the MHCHA) are adequate in extent, feasible and appropriate. The ExA was satisfied that the compensatory measures, with the exception of the timing of the wetland habitat creation element, are adequately secured under the provisions of the rDCO and DoO.

#### Post-Examination Consultation

- 5.39 With regards to the timings around the creation and functionality of the wetland element of the MHCHA, in response to the Secretary of State's first consultation letter, the Applicant proposed revision of the excavation period in the CoCP from October – February over two consecutive winters, to mid-August – February (inclusive) over a single winter. The Applicant concluded that any potential barrier effect as a result of disturbance to marsh harrier would therefore not occur until the start of the 2024 breeding season.
- 5.40 In its response to the Secretary of State's third consultation letter, the RSPB/SWT stated that the Applicant's response addressed a key outstanding concern with regards to the delivery of the marsh harrier compensation habitats and it was supportive of the proposed timings.
- 5.41 NE welcomed the earlier commitment from the Applicant to wetland habitat creation as part of the compensatory measures for breeding marsh harrier of the Minsmere-Walberswick SPA. It advised that the timeline proposed by the Applicant for wetland habitat creation would give the best possible chance of the habitat being in place and functioning as far as possible as part of the wider compensatory terrestrial dry habitats, prior to the onset of significant disturbance from construction activities. It also stated that the wetland habitat would be unlikely to be functioning to its full extent for foraging marsh harrier after one year.

#### Conclusions

- 5.42 The Secretary of State considered there to be sufficient detail in the evidence presented to provide confidence that a package of measures will be delivered which will protect the coherence of the NSN as required by Regulations 64 and 68 of the Habitats Regulations. The implementation of a Marsh Harrier Implementation Plan, which must be in general accordance with the On-site Marsh Harrier Compensatory Habitat Strategy, is secured by Requirement 27 of the Order. In reaching this conclusion, he has considered the currently established and functioning marsh harrier compensatory habitat area within the EDF Energy estate, comprised of dry habitat. He considers that this, coupled with the wetland habitat which will be completed by February 2023 before the onset of disturbance from construction, will provide sufficient foraging habitat

for breeding marsh harrier to compensate for the full potential adverse effects of the Proposed Development on the Minsmere-Walberswick SPA.

## **6 Consideration of Compulsory Acquisition and Related Matters**

6.1 The ExA notes [ER 8.11.120] that if the Secretary of State takes a different view to the ExA's recommendation and considers that consent for the Proposed Development should be granted, the ExA has addressed the extent to which the Applicant has made the case for Compulsory Acquisition ("CA") powers necessary to enable the proposal to proceed.

6.2 The Secretary of State notes the Applicant seeks powers for the CA of land and rights over land, and for the Temporary Possession ("TP") of land for construction, operation and maintenance purposes [ER 8.2.1]. The Planning Act 2008, together with related case-law and guidance, provides that compulsory acquisition can only be granted if certain conditions are met. Under section 122 of the Planning Act 2008 compulsory acquisition may only be authorised if:

- the land is required for the development to which the consent relates, or
- it is required to facilitate or is incidental to that development; or
- it is replacement land which is to be given in exchange for the Order land under sections 131 or 132 of the Planning Act 2008; and
- there is a compelling case in the public interest.

6.3 In connection with this:

- the land required to be taken must be no more than is reasonably required and be proportionate;
- there must be a need for the project to be carried out;
- all reasonable alternatives to compulsory acquisition have been explored;
- the applicant has a clear idea of how it intends to use the land and can demonstrate that funds are available to pay for the acquisition; and
- the decision-maker is satisfied that the purposes stated for the acquisition are legitimate and sufficient to justify the interference with the human rights of those affected.

6.4 The ExA notes [ER 8.3.1] that part of the land required falls within the definition of Crown land under PA2008. The ExA notes that [ER 8.3.2] the Secretary of State is the owner of other Crown interests that would be affected by the draft Order.

### *Special Category Land*

6.5 The ExA notes [ER 8.5.1] that there is no open space, common land or fuel or field garden allotments included in or affected by the Order land.

## The Applicant's Case

6.6 The Applicant's case for the grant of CA and TP powers is set out in: the Application Statement of Reasons ("SoR") and Addendum; the Funding Statement, Addendum and Second Addendum; the final Book of Reference ("BoR"); and the final Schedule of Changes to the BoR [ER 8.10.1]. The Secretary of State notes that the Applicant submitted an updated version of the BoR on 14 April 2022.

### *Marsh Harrier Improvement Area*

6.7 N J Bacon Farms and Ward Farming Limited formally objected to the CA of land at Grange Farm, Westleton, to provide a marsh harrier habitat improvement area [ER 8.11.72]. The landowners have put forward an alternative site at Theberton which they consider to be more suitable and their ecologist produced a comparison between the Westleton and Theberton sites based on various applicable criteria [ER 8.11.73].

6.8 The ExA notes [ER 8.10.8] that the Applicant's position is that the provision of marsh harrier habitat on this land would not be required to mitigate or compensate for the effects of the Proposed Development, but it is nevertheless part of the Application in case the Secretary of State disagrees with this position.

6.9 The ExA concludes [ER 8.11.129] that the provision of additional dry foraging marsh harrier on land at Westleton is not necessary to ensure the National Site Network is maintained for marsh harrier, and consequently this land is not necessary to facilitate the Proposed Development and therefore it should be excluded from the scope of the CA powers sought. The ExA notes that should the Secretary of State disagree, and determine that additional compensatory habitat is required, then the land at Westleton could be utilised to perform that function, and in those circumstances, all reasonable alternatives to the CA of land would need to be considered in accordance with CA guidance.

6.10 The Secretary of State has considered this matter and concludes that the permanent marsh harrier foraging habitat within the EDF Energy estate is sufficient compensation. In coming to this decision, the Secretary of State notes that Natural England has stated that the compensatory habitat proposed by the Applicant within the EDF Energy estate is of sufficient extent to ensure the integrity of the National Site Network, without making a case that the land at Westleton is essential for this purpose. The Secretary of State therefore agrees with the ExA that the additional marsh harrier foraging habitat at Westleton is not required.

### *Two Village Bypass*

6.11 The ExA notes [ER 8.10.9] that a similar situation exists in relation to the flood compensation land associated with the TVB, as the Applicant considers flood compensation on this land would not be required, but it is part of the Application in case the Secretary of State disagrees. The ExA notes that the Applicant has now signed heads of terms with the landowner with an option to call for the grant of rights to flood and the EA is satisfied with that approach. However, the

ExA [ER 8.11.130] considers it is reasonable to retain the CA powers for this land, and to rely upon the Applicant's stated intention only to exercise its powers of CA to the extent necessary, as it is not clear from the application documentation that the land would not be required for other purposes associated with the TVB. The Secretary of State agrees with the ExA's conclusions on this matter.

*Public benefit and private loss*

- 6.12 With regard to the public benefit of the Proposed Development, the ExA notes [ER 8.10.14] the Applicant's position that the Proposed Development would meet an urgent need for new low carbon energy infrastructure, that [ER 8.10.15] it would provide significant economic benefits to the local area and nationwide, and that [ER 8.10.16] it would provide long term sustainable local and regional infrastructure benefits through local rail and road network improvements.
- 6.13 With regard to private loss, the ExA notes [ER 8.10.21] the Applicant has taken pro-active steps to engage with those persons whose land or interests in land is to be compulsorily acquired, through formal consultation and informal engagement, and that this has helped to shape the proposals, and where possible, introduced design changes to minimise private loss. The ExA notes [ER 8.10.22] that the necessity for private loss is demonstrated by the Applicant's identification of the need for each plot, the intended use, and the powers sought, and that private loss would be reduced as landowners would be compensated at market value in line with the compensation code.
- 6.14 The ExA notes [ER 8.10.25] that the substantial national and local public benefits that would arise from the Proposed Development demonstrably and overwhelmingly outweigh the private loss suffered by those whose land or interests in land is to be acquired to enable that to occur.
- 6.15 The ExA notes [ER 8.11.154] its overall conclusions are predicated on the Secretary of State reaching a different conclusion on the grant of development consent for the Proposed Development.

*Alternatives to CA*

- 6.16 The Applicant considered alternatives to CA [ER 8.10.26 et seq.] including alternative location or design for the MDS [ER 8.10.28 et seq.] and the associated development sites [ER 8.10.31 et seq.]. The ExA [ER 8.11.134] has considered strategic alternatives together with alternatives to the location or design of the MDS and the different elements of the associated development and concludes that there are no policy or legal requirements that would lead it to recommend that development consent for the Proposed Development should be refused in favour of another alternative. With regard to the SLR, the ExA [ER 8.11.137] has considered route alternatives and whether the SLR should be retained on a permanent or temporary basis and concludes that the proposed SLR route represents the most satisfactory and least harmful option and it should be retained on a permanent basis following completion of the construction phase. The ExA concludes [ER 8.11.140] that the Applicant has

explored all reasonable alternatives to CA including modifications to the scheme.

#### *Funding*

- 6.17 The ExA notes [ER 8.10.42] that the Applicant submitted a Funding Statement with the Application, an addendum to this statement following a request by the ExA and a second addendum with the initial set of change requests. The ExA also notes [ER 8.10.49] that EDF Energy and the wider EDF Energy group have significant experience in delivering major energy infrastructure projects, and that [ER 8.10.50] the Applicant is confident it will be able to raise the funding required for the Proposed Development including for any CA to take place within the timescales set by the Order. The ExA notes that [ER 8.10.51] the Secretary of State should be satisfied the Applicant would have adequate funds available for the Proposed Development, including the CA of land, interests in land and rights over land. The ExA notes the provision in the Order to provide security for compulsory acquisition costs before they are incurred and concludes [ER 8.11.147] that should development consent be granted, there is a reasonable prospect of the requisite funds for CA becoming available within the statutory period following the Order being made.

#### *Crown and Statutory Undertakers' Land*

- 6.18 The ExA notes [ER 8.10.54] that the Crown Estate Commissioners have reached agreement with the Applicant which provides the Commissioners with sufficient assurance as to the way in which CA powers may be exercised in respect of third-party interests in Crown land. The ExA notes that the Secretary of State is the owner of Crown interests that would be affected by the draft Order at the MDS, and that the consent of the Secretary of State had not been submitted during the Examination [ER 8.11.99]. The ExA advises that this consent is therefore required to authorise the CA of these land interests before the Order can be made, as a separate matter to the Secretary of State's decision on the Order [ER 8.11.99]. The Secretary of State notes that a letter providing consent for the proposed CA was issued by BEIS on 8 October 2021<sup>14</sup>.
- 6.19 With regard to Statutory Undertaker's ("SU") land, the ExA notes [ER 8.10.55] that the Applicant has identified SUs which have an interest in CA land or have a right to keep equipment in or over CA land, has engaged with them and had regard to feedback received, and that the Applicant considers that under section 127 of the PA2008, the SUs would not suffer serious detriment to the carrying on of their undertaking as a result of the CA or TP sought.

#### *Other Consents and Agreements*

- 6.20 The Applicant submitted a final Schedule of Other Consents, Licences and Agreements which lists the status and/or timeframe of each consent, licence and agreement and the ExA notes that it is not aware of any reason why these

---

<sup>14</sup> BEIS Letter of 8 October 2021: <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010012/EN010012-008073-Carly%20Vince%20-%20Other-%20Section%20135%20Consent.pdf>



would not be able to be obtained or any other obvious impediments to the implementation of the Proposed Development including from any other regulatory requirement.

#### *Acquisition by Negotiation*

- 6.21 The Applicant carried out four stages of public consultation in addition to further targeted consultation and informal engagement, beyond the formal stages of consultation engaged directly with individual landowners and those with an interest in the affected land, and has engaged with individual landowners to seek private agreements and option agreements have been agreed over some plots of land [ER 8.10.60]. The ExA notes [ER 8.10.61] that the Applicant is applying for CA or TP powers over all of the Order land to ensure that title can be secured with certainty.

#### *Human Rights and the Equality Act*

- 6.22 The Applicant has considered the Human Rights Act 1998 and European Convention on Human Rights in its Statement of Reasons [ER 8.10.62]. The ExA confirms [ER 8.10.65] that there would be no violation of the rights contained in Article 1 or Protocol 1 as it has been demonstrated that the proposed interference is in the public interest and lawful and that appropriate compensation would be available to those entitled under the national compensation code. The ExA notes [ER 8.10.69] that the Applicant has carefully considered the balance to be struck between individual rights and the wider public interest and that to the extent that the draft Order would affect individuals' rights, for the reasons summarised in the Report, the proposed interference with those rights would be in accordance with law, proportionate and justified in the public interest.
- 6.23 The Applicant submitted an Equality Statement with the Application and an Equality Statement Update [ER 8.10.70]. The Applicant is not a public body listed in s19 Equality Act 2010 but has nevertheless had regard to the principles of the Public Sector Equality Duty ("PSED") [ER 8.10.71]. The Applicant understands there to be APs who have protected characteristics but considers none have been disadvantaged in respect of engaging with the Applicant or the Examination or have been in any way disproportionately affected by the Proposed Development [ER 8.10.73]. The Applicant recognises and has complied with the requirements of the PSED to make reasonable adjustments to processes that would otherwise unfairly disadvantage those with protected characteristics [ER 8.10.74].

#### *Purpose of powers sought*

- 6.24 The ExA agrees [ER 8.11.126] that the flexibility sought by the Applicant is entirely appropriate and proportionate for a project of this type, and concurs [ER 8.11.128] with the Applicant that the SLR along with other land sought to facilitate the Proposed Development very clearly falls within the category of associated development. In respect of all plots included in the BoR the justification for the inclusion of the plots in the SoR and the SoR addendum, the type and extent of the interests sought, the stated use of the Order Land and whether there are clear and necessary proposals in relation to each plot

sought, and the potential effects and consequences of taking the land proposed, the ExA has [ER 8.11.131] examined the case which has been made and is content that all associated development comprised in Schedule 1 of the recommended Order is appropriately included and reflects the PA2008 Guidance on associated development applications for major infrastructure projects, and concludes that the extent of the land over which powers are sought in the recommended Order is no more than is reasonably required and is proportionate to the needs of the Proposed Development. The ExA is satisfied [ER 8.11.132] that in the event of the grant of development consent, there would be a need to acquire the rights and interests in the CA land and the CA powers sought in the draft Order would be required to implement the development.

### Objections received to the CA proposals

- 6.25 A number of objections to the CA proposals were received from APs [ER 8.11.1]. The ExA summarises [ER 8.11.13 et seq.] the cases for those APs with substantive objections to the grant of CA powers that have not yet been resolved, and notes that its considerations address whether the case is made for the exercise of powers of CA in each instance to enable the development consent to proceed should the Secretary of State decide to grant development consent for the Proposed Development.
- 6.26 The ExA considered the objections from Laurence Justin Dowley, Emma Louise Dowley, and Cripps Trust Corporation Limited [ER 8.11.37 et seq.], Ms Dyball, Ms Hall and Sr Whitwell & Co [ER 8.11.58 et seq.], and Owen Mark Woolnough [ER 8.11.69 et seq.], and is satisfied that the CA of the relevant interests in the objectors' land would be necessary in order to implement the Proposed Development, that it would be reasonable and proportionate to do so in this instance. The ExA concludes that the matters raised should not, in themselves, preclude the exercise of the relevant CA powers, should the Secretary of State decide to grant development consent for the Proposed Development [ER 8.11.65].

### *Overall conclusions*

- 6.27 The ExA is content [ER 8.11.168] that the inclusion of CA and TP powers in the Order would not constitute any unlawful interference with rights in the European Convention on Human Rights, as incorporated by the Human Rights Act 1998, and that should the Secretary of State disagree with the ExA's recommendation that consent should not be granted, it would otherwise be appropriate and proportionate to make the recommended Order including the grant of powers of CA and TP. With regard to PSED, the ExA is satisfied [ER 8.11.173] the Applicant has complied with its duties under section 149 of the Equality Act 2010. The ExA also notes that it has had due regard to the PSED contained in section 149 of the Equality Act 2010 and concludes there is no evidence that implementation of the Proposed Development would disproportionately affect persons who enjoy a protected characteristic, nor would there be any adverse effect on the relationship between such persons and persons who do not share a protected characteristic.

- 6.28 The ExA considers the CA and TP powers sought under section 122 [ER 8.11.178 et seq], Section 120 [ER 8.11.191], Sections 127 and 138 [ER 8.11.192 et seq.], and Section 135 of the PA 2008.
- 6.29 The ExA considers [ER 8.11.195] that before the making of any Order, the Secretary of State should seek LoNIs from NE together with confirmation that the extent of any such letters is sufficient for the matters considered during the Examination. The ExA also notes that although the power station could be built, ONR has confirmed that it could not be licensed and could not operate without a secure and permanent water supply. That represents a potential impediment to the scheme in the event that the water supply issue is not satisfactorily resolved. These matters are both included within Appendix E of this Report as considerations for the SoS.
- 6.30 The ExA recommends that [ER 8.11.196], should the Secretary of State disagree with the ExA's main recommendation and be minded to grant development consent:
- the CA powers included in the recommended Order be granted;
  - the TP powers included in the recommended Order be granted;
  - the CA powers sought in respect of interests in Crown Land included in the recommended Order should not be granted unless the SoS has provided the necessary s135 consent. As set out above, BEIS issued a letter granting the s135 consent on 8 October 2021;
  - the powers authorising the CA of SUs' land and rights over land included in the recommended Order be granted;
  - the powers authorising the extinguishment of rights, and removal of apparatus, of SUs included in the recommended Order be granted;
  - and,
  - the powers included in the recommended Order to apply, modify or exclude a statutory provision be granted.
- 6.31 In respect of the ExA's concerns related to LoNIs from NE, the Secretary of State sought information from NE on 31 March 2022 and 16 May 2022 regarding the outstanding licences. On 30 May 2022 NE confirmed that LoNIs had now been issued for all protected species except for bats. NE have provided the Applicant with a "letter of comfort" for bats, detailing that NE have not identified any aspects of their proposals that would mean a licence could not be issued in principle. The Secretary of State considers issues relating to protected species licensing to be resolved. Further consideration of this matter is provided in the Biodiversity and Ecology (terrestrial) section of this letter.
- 6.32 With regard to the matter of the permanent water supply, the Secretary of State considers that sufficient information has been provided to demonstrate that the Applicant has options available to it that will ensure a permanent water supply solution is secured. Whilst the preferred option is for a mains connection via NWL, the Applicant is also able to explore other solutions and has indicated that in the unlikely event that NWL is unable to meet the Proposed Development's water supply demand, a permanent desalination plant could

provide a permanent water supply solution. Further consideration of this matter is provided in the water supply subsection of this letter.

- 6.33 The Secretary of State has decided to grant consent in light of the Secretary of State's conclusions in relation to protected species licences and the matter of the permanent water supply solution. Given those conclusions and the consideration of the CA and TP powers in this chapter, the Secretary of State considers that CA and TP powers should be granted as per paragraph 6.30 above.

## **7 The Secretary of State's Consideration of the Planning Balance**

- 7.1 The Applicant has accepted that section 104 of the Planning Act 2008 does not apply to the Proposed Development and that it would therefore need to be assessed under section 105 [ER 4.4.4]. The Government's WMS of December 2017 makes clear the ongoing commitment to both EN-1 and EN-6, noting that *'the Secretary of State would be required, under section 105(2)(c) of the Act, to have regard to the content of EN-1 and EN-6, unless they have been suspended or revoked. In respect of matters where there is no relevant change of circumstances it is likely that significant weight would be given to the policy in EN-1 and EN-6'*.<sup>15</sup> The Secretary of State considers that this Application falls to be considered under section 105.
- 7.2 The determination of applications for development consent for nationally significant infrastructure projects is a balancing exercise and the weight afforded to different elements of the matrix of impacts and benefits may affect the overall conclusion.
- 7.3 In the case of the Proposed Development, the ExA recognises [ER 7.5.4] the positive impacts of the proposal in terms of its contribution to the policy objectives of low-carbon energy production and notes that it would be in accordance with the aim of Government policy as set out in NPS EN-1 and EN-6 to achieve the delivery of major energy infrastructure including new nuclear electricity generation to meet the urgent need for new NSIPs. The ExA also recognises there is clearly an urgent need for development of the type proposed [ER 7.5.4] and the Secretary of State attributes substantial weight to this need. The ExA notes the other potential benefits that would accrue very substantial weight are those relating to the local economy and business, and employment and skills, and attributes very substantial weight to the significant employment and skills benefits arising from the Proposed Development [ER 5.21.226]. It attributes lesser degrees of weight to other factors including matters relating to: air quality (legacy benefits of the SLR and TVB [ER 5.3.224]); amenity and recreation; health and wellbeing (improved access to the countryside, employment benefits, legacy benefits of SLR and TVB, and the B1122 repurposing scheme); and legacy noise benefits for certain residential properties as a result of the SLR and TVB [ER 7.5.4].
- 7.4 The ExA also acknowledges [ER 7.5.5] the potential adverse impacts, and attributes very substantial weight to the landscape and visual construction

---

<sup>15</sup> <https://questions-statements.parliament.uk/written-statements/detail/2017-12-07/HCWS321#skipToContent>

effects on the AONB and SHC. Substantial weight is attributed to the residual construction cumulative effects on the AONB [ER 5.10.211]. Substantial weight is also attributed to operational landscape and visual effects on the AONB and SHC. Substantial weight is attributed to the transport effects on the B1122 in the early years. In light of the Secretary of State's decision to not require that the TVB and SLR are operational in advance of commencement of Phase 1 works on the MDS, the Secretary of State agrees that substantial weight should be attributed to transport impacts. Substantial weight is also attributed to operational landscape and visual effects and residual effects on amenity and recreation during the construction phase on the AONB and SHC. Substantial weight is attributed to the partial loss of the Suffolk Shingle Beaches CWS and the Sizewell Levels and Associated Areas CWS and to the effects on the Sizewell Marshes SSSI. The impact on the Sandy Stilt Puffball is given substantial weight as it is a s.41<sup>16</sup> species. Moderate weight is attributed to other factors including matters relating to the amenity of residents along the B1122 in the early years in advance of the provision of the SLR [ER 5.5.228], residual landscape and visual effects, biodiversity and ecology, noise and vibration (including certain properties during the early years and the consequential noise environment in gardens that may occur and construction noise in the AONB), and residual operational and cumulative effects on the AONB and SHC.

- 7.5 The ExA attributes moderate weight to historic environment impacts against the Order being made [ER 5.13.436]. However, the Secretary of State attributes substantial weight to the impacts on archaeological assets. The Secretary of State also attributes substantial weight to impacts on designated heritage assets. Overall, the Secretary of State therefore disagrees with the ExA's conclusions on this matter and ascribes substantial weight to historic environment impacts against the Order being made.
- 7.6 The ExA attributes substantial weight to the harm to barbastelle bats and the Deptford Pink and its habitat as protected species [ER 7.5.5]. However, the Secretary of State considers that the ExA's conclusion on barbastelle bats and the Deptford pink does not take into account the issuing of LoNIs and the letter of comfort by NE since the close of the examination. In light of these changes, the Secretary of State attributes little weight against making the Order in relation to potential harm to barbastelle bats and the Deptford pink.
- 7.7 The ExA ascribes moderate weight against making the Order in relation to impacts on waterbirds at the Minsmere SSSI unless wetland compensation is put in place and functional before the disturbance due to construction occurs [ER 5.6.88, 5.6.98, 5.6.423, 5.6.424].
- 7.8 The ExA attributes little weight to matters relating to agriculture and soils against making the Order [ER 7.4.12], but the Secretary of State disagreed with this conclusion in light of the ExA's assertion that the benefits of the Proposed Development related to agriculture and soils would be moderate. The Secretary of State attributes neutral weight to the matter of agriculture and soils in the

---

<sup>16</sup> See Section 41 of the Natural Environment and Rural Communities Act 2006

planning balance. See paragraphs 4.89.89 to 4.90 of this letter for the Secretary of State's conclusion on this matter.

- 7.9 The ExA also attributes little weight to: some specific biodiversity impacts, including the loss of three veteran trees, of the TVB [ER 5.6.439] and impacts on the reedbed and ditches at the Sizewell Marshes SSSI [ER 5.6.432]; to adverse effects on some communities arising from construction and operation of the Proposed Development [ER 5.9.277]; to landscape and visual effects arising from the development of the MDS [ER 5.14.427, 5.14.430]; cumulative landscape and visual effects with other plans, projects and programmes [ER 5.14.405 et seq.]; good design in terms of appearance and adverse effects on landscape in views [ER 5.14.450]; tourism impacts during the construction period [ER 7.4.204]; matters of good design [ER 7.4.107]; operational impacts on the amenity and recreation of the AONB [ER 5.5.205]; road surface and construction noise [ER 5.18.339]; noise and vibration impacts of TVB and SLR [ER 5.18.345]; acoustic design to address noise [ER 5.18.355]; nighttime rail noise between Leiston and Saxmundham [ER 5.18.358]; noise at Whitearch Park [ER 5.18.361]; and community effects that arise from construction and operation [ER 5.9.277].
- 7.10 The ExA attributes neutral weight to a number of issues including the consideration of alternatives, climate change, coastal geomorphology and hydrodynamics, flood risk, groundwater and surface water, marine ecology, marine navigation, accommodation effects, and waste (conventional and material resource) [ER 7.5.6]. The ExA considers there are no matters relating to health and wellbeing [ER 7.4.110] and air quality issues [ER 5.3.224] that weigh against the Order being made.
- 7.11 The ExA notes that, apart from the uncertainty in relation to the WFD, there are no matters relating to marine water quality that weigh for or against the making of the Order [ER 7.4.170]. The Secretary of State, having received further information from the MMO in respect of the BEEMs Technical Report, and the EA in respect of WFD compliance and environmental permitting, is satisfied that the matters highlighted by the ExA for further consideration have been satisfactorily addressed. The Secretary of State therefore attributes neutral weighting to marine water quality in the overall planning balance.
- 7.12 The Secretary of State notes the ExA's conclusion that radioactive waste and other radiological considerations should not weigh against the Order being made [ER 7.4.202], and agrees with the ExA that there is sufficient evidence to reach a conclusion on this matter [ER 7.4.201].
- 7.13 With the exception of the permanent water supply issue, the ExA concludes that in a general planning balance the potential benefits of the Proposed Development including the contribution that it would make to satisfying the urgent need for low-carbon electricity generating infrastructure of this type would strongly outweigh the potential adverse impacts [ER 7.5.9].
- 7.14 The ExA considers [ER 7.5.7] that, even if the Proposed Development and the water supply are considered to be two separate projects, the cumulative effects associated with it should be assessed at this stage. The Secretary of State's consideration of this matter can be found in the Water Supply subsection of this

letter. The Secretary of State ascribes neutral weight to the matter of the permanent water supply solution in the planning balance.

- 7.15 Overall, the Secretary of State concludes that the benefits, in particular the need case as established in paragraph 7.3 above, outweigh the adverse impacts for the Proposed Development. The Secretary of State therefore concludes that consent should be granted for the Proposed Development.

## **8 Other Matters**

### Human Rights Act 1998

- 8.1 The ExA notes that the draft Order would engage Article 1 [ER 8.10.63 et seq.] of the First Protocol and Article 8 [ER 8.10.68] of the European Convention on Human Rights as given effect in the Human Rights Act 1998. The ExA is satisfied that in relation to the inclusion of Compulsory Acquisition and Temporary Possession powers in the recommended Order, any interference with human rights would be in accordance with law, proportionate and justified in the public interest [ER 8.10.69]. The Secretary of State has considered the potential interference with human rights arising from the Proposed Development. He considers that any interference with human rights which would arise from the grant of the Order would be in accordance with the provisions of the Human Rights Act 1998.

### Equality Act 2010

- 8.2 The Equality Act 2010 includes a public sector equality duty (“PSED”). This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age; gender; gender reassignment; disability; marriage and civil partnerships<sup>17</sup>; pregnancy and maternity; religion and belief; and race) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.3 In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the examination. The Act does not prohibit detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.
- 8.4 The ExA considered potential equality impacts during the Examination and within the report. The ExA acknowledges that the Equality Statement recognises there is the potential for differential or disproportionate effects from the Proposed Development, including at [ER 5.12.107] but considers that the Proposed Development with the mitigation in place would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic, and on that basis, there would be no breach of the

---

<sup>17</sup> In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

PSED [ER 5.12.117]. The ExA in its final conclusion is satisfied the Applicant has complied with its duties under Section 149 of the Equality Act [ER 8.11.173] and considers that there is no evidence that the Proposed Development would disproportionately affect persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic.

- 8.5 The Secretary of State is confident that, in taking his decision, he has paid due regard to the above aims when considering the potential impacts of granting or refusing the Application and can conclude that the Sizewell C Nuclear Power Station will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that neither the grant nor refusal of the Application is likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

#### Natural Environment and Rural Communities Act 2006

- 8.6 The Secretary of State has considered his duty in accordance with section 40(1) of the Natural Environment and Rural Communities Act 2006, where he is required to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.
- 8.7 The Secretary of State is of the view that the ExA Report, together with the environmental impact analysis, including the Habitats Regulations Assessment, considers biodiversity sufficiently to inform his decision to grant consent to the Proposed Development.

#### Climate Change Act and the Net Zero Target

- 8.8 On 2 May 2019, the Climate Change Committee recommended the UK reduce greenhouse gas emissions to net zero by 2050. This was proposed to deliver on the commitments the UK made by signing the Paris Agreement in 2016. On 26 June 2019, following this advice, Government announced a new carbon reduction 'net zero' target for 2050, and amended the Climate Change Act 2008 to require the UK to reduce net carbon emissions from 80% to 100% below the 1990 baseline by 2050.
- 8.9 The Secretary of State notes the Energy White Paper (December 2020) states that National Policy Statements continue to form the basis for decision-making under the Planning Act 2008. The Secretary of State does not consider that the amendment to the Climate Change Act 2008 has lessened the need for development of the sort represented by the Sizewell C Nuclear Power Station which is, therefore, still in accordance with the National Policy Statements. Operational emissions will be addressed in a managed, economy-wide manner, to ensure consistency with carbon budgets, net zero and our international climate commitments. The Secretary of State does not, therefore need to assess individual applications for planning consent against operational carbon emissions and their contribution to carbon budgets, net zero and our international climate commitments.



## The British Energy Security Strategy

8.10 The Secretary of State notes the continued support for new nuclear generating capacity in the British Energy Security Strategy.

### **9 Modifications to the draft Order**

9.1 Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order:

9.1.1 Amendments to the definition of “commence” to exclude additional works from the definition (pursuant to the Applicant’s response to the Secretary of State’s consultation on 31 March 2022).

9.1.2 Amendments to the definition of “Deed of Obligation” to include the date of the original deed (8 October 2021) and to include the deeds of variation dated 13 April 2022 and 6 May 2022, respectively.

9.1.3 Amendment to Article 3 (development consent etc granted by Order) to replace the reference to “lines or situations shown on the Works Plans” with the words “Order limits”.

9.1.4 The omission of paragraph (4) of Article 13 (power to alter layout, etc., of streets) and paragraph (6) of Article 24 (traffic regulation measures) to remove the caveats to the requirements to obtain street authority consent and traffic authority consent, respectively.

9.1.5 Amendment to Article 24 (traffic regulation measures) to include the obligation to change the speed limit back to the speed limit which applied immediately before a temporary traffic regulation order came into force (previously included as a note in schedule 14 (traffic regulation measures)).

9.1.6 Amendment to the notice requirements in Article 27 (authority to survey and investigate the land) to require that notices must indicate the nature of the survey or investigation that the undertaker intends to carry out. Amendments to Article 49 (incorporation of the Harbours, Docks, and Piers Clauses Act 1847) to update the references to the Harbours, Docks, and Piers Clauses Act 1847.

9.1.7 Amendment to Article 56 (obstruction of officers) to change the maximum fine level for an offence under paragraph 1(c), where the person makes a statement which that person knows to be false, to a fine not exceeding level 3 on the standard scale.

9.1.8 Incorporation of Article 59 (lights on marine works etc. during construction), Article 60 (provision against danger to navigation) and Article 61 (Permanent lights on marine works) in Part 6 (Harbour Powers) (which had originally been included as Part 6a in the recommended Order).

9.1.9 Amendments to Schedule 2 (requirements):

9.1.9.1 Amendments to requirement 5 (project wide: surface and foul water drainage) to include requirements to submit details of the surface water drainage system, to consult with the Lead Local Flood Authority, Natural

England and the drainage authority. The amendments also include a requirement to provide details of the approved surface and foul water drainage system to SCC and to obtain endorsement from SCC for the approved management and maintenance arrangements and means of pollution control. These amendments reflect the changes proposed by the Applicant in April 2022, in response to the Secretary of State's consultation on 31 March 2022. Minor consequential amendments (to refer to the drainage strategy) have been made to requirement 23 (main development site: highway works) and requirement 35 (highway works).

- 9.1.9.2 Amendments to requirement 6 (project wide: emergency planning) to include consultation with the ONR, Sizewell Emergency Planning Consultative Committee or Suffolk Resilience Forum, to remove the requirement to refer the agreement to the ONR in some circumstances and to remove the option to implement the emergency plan in accordance with the ONR decision, if relevant. This reflects the drafting submitted by the Applicant as a post-examination submission on 24 February 2022, which was agreed by the ONR, SCC and ESC.
- 9.1.10 Amendments to Schedule 21 (deemed marine licence under Part 4 (Marine Licensing) of the Marine and Coastal Access Act 2009):
- 9.1.10.1 Pursuant to the ExA's recommendation at Appendix E to the ExA's Report, the Secretary of State has considered the determination periods under Schedule 21. The Secretary of State agrees with the ExA views in relation to the appeal mechanism as reflected in the recommended order. In the absence of an appeal mechanism for the deemed marine licence in the recommended Order, takes the view that the term "determination date" and the various determination periods referred to in the deemed marine licence have no effect. As such, the Secretary of State has concluded that all references to the determination date and the determination periods should be omitted.
- 9.1.11 Amendments to the works described at paragraph 4(2)(a) (Work No. 1A(I)) (pursuant to the Applicant's response to the Secretary of State's consultation on 31 March 2022) and 4(2)(n) (Works No. 2O and 2P) (pursuant to the Applicant's response to the Secretary of State's consultation on 25 April 2022).
- 9.1.12 Replacement of "July" with "August" in paragraph 36(3) (beach landing facility and temporary marine bulk import facility) when setting the dates between which impact piling cannot commence for Work No. 1A(I) and Work No. 1A(aa) (pursuant to the Applicant's response to the Secretary of State's consultation on 31 March 2022).
- 9.1.13 Amendments to Schedule 23 (certified documents):
- 9.1.14 Inclusion of the first and second deeds of variation to the Deed of Obligation, dated 13 April 2022 and 6 May 2022 (respectively).
- 9.1.15 Pursuant to the ExA's recommendation at Appendix E to the ExA's Report, the Secretary of State verified the document references where there appeared to be discrepancies in the Examination Library. The Secretary of State has

amended the references to the Access Road Plan, the Environmental Statement and Parameter Plans pursuant to the Applicant's response to the Secretary of State's consultation letter on this point (25 April 2022).

- 9.2 In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments (for example, modernisation of language), changes made in the interests of clarity and consistency and changes to ensure that the Order has its intended effect.
- 9.3 In Appendix E to the ExA's Report, the ExA raised a number of points on the Order for the Secretary of State to consider. In addition to the points referred to in paragraph 9.1 above (which resulted in amendments to the draft Order), the Secretary of State also considered the points listed below (which did not result in amendments) and concluded as follows:
- 9.3.1.1 Pursuant to the ExA's recommendation the Secretary of State consulted the Applicant and other parties on the use of the phrases "where practicable" and "where possible / as soon as possible" on 31 March 2022. The Applicant took the view that it was not considered to be appropriate or necessary for these definitions themselves to be further secured, either through the Development Consent Order or any other mechanism. The Secretary of State agrees with the Applicant's view that further amendments to the Order are not required.
- 9.3.1.2 The Secretary of State is content with the additional wording that the ExA included in conditions 44 and 45 of Schedule 21 (deemed marine licence under Part 4 (Marine Licensing) of the Marine and Coastal Access Act 2009).
- 9.3.1.3 The Secretary of State is satisfied with the ExA's amendment to Article 11 (modification and discharge of deed of obligation) to protect the Environment Agency.
- 9.3.1.4 The Secretary of State considered the ExA's suggestion that because the phrase "main development site" has a different meaning in the Order from its meaning in the Environmental Statement, in the future the Secretary of State may wish to adopt a different phrase in the Order. The Secretary of State concluded that the definition of the "main development site" in the Order was clear and amendments were not required.

## **10 Challenge to decision**

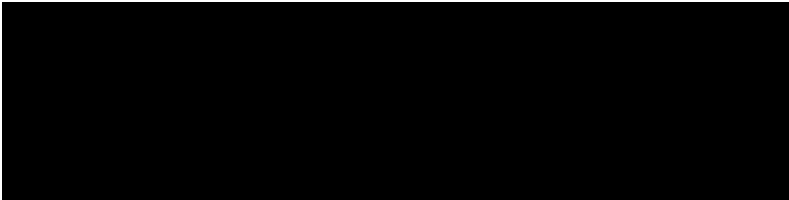
- 10.1 The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

## **11 Publicity for decision**

- 11.1 The Secretary of State's decision on this Application is being publicised as required by section 116 of the Planning Act 2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

11.2 Section 134(6A) of the Planning Act 2008 provides that a compulsory acquisition notice shall be a local land charge. Section 134(6A) also requires the compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely



**Fiona Mettam**

Director, Energy Development and Resilience Directorate

## **LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS**

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/the-sizewell-c-project/>

**These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).**

## **Key Letters**

The Secretary of State's letter of 18 March 2022:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-008877-Sizewell%20C%20-%20Secretary%20of%20State%20Information%20Request.pdf>

The Secretary of State's letter of 31 March 2022:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-010762-Sizewell-C-Information-Request-No.2-31-03-2022.pdf>

The Secretary of State's invitation for comments of 25 April 2022. This letter also contained specific points for the Applicant to respond to:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-010819-BEIS-invitation-to-IPs-25-04-22.pdf>

The Secretary of State's letter of 16 May 2022:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-010858-SZC-BEIS-%20Letter-16-May-2022.pdf>

The Secretary of State's letter of 31 May 2022:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-010979-Sizewell%20C%20-%20Letter%20to%20Applicant%20and%20ONR.pdf>

## **Glossary of Terms**

<b>Abbreviation</b>	<b>Meaning</b>
ACA	Ancillary Construction Area
ADDP	Associated Development Design Principles
ADS	Associated Development Sites
AEoI	Adverse Effect on Integrity
AEPA	Anglian Energy Planning Alliance
AFD	Acoustic Fish Deterrent
AIL	Abnormal Indivisible Loads
ALC	Agricultural Land Classification
AOD	Above Ordnance Datum
AONB	Area of Outstanding Natural Beauty
AQMA	Air Quality Management Area
AQO	Air Quality Objective
BESS	British Energy Security Strategy
Blyth WRZ	Blyth Water Resource Zone
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BoR	Book of Reference
DfT	Department for Transport
CA	Compulsory Acquisition
CDO	Combined Drainage Outfall
CHA	Competent Harbour Authority
CMS	Construction Method Statement
CoCP	Code of Construction Practice
CO <sub>2</sub>	Carbon Dioxide

CPMMP	Coastal Processes Monitoring and Mitigation Plan
cSAC	Candidate Special Area of Conservation
CTMP	Construction Traffic Management Plan
CWTP	Construction Workforce Travel Plan
CWS	County Wildlife Site
DAS	Design and Access Statement
DCO	Development Consent Order
DL	Deadline
DLL	District Level Licensing
DML	Deemed Marine Licence
DMP	Dust Management Plan
DMMP	Dust Monitoring and Mitigation Plans
DoO	Deed of Obligation
EA	Environment Agency
EA1N	East Anglia One North
EA2	East Anglia Two
EAV	Equivalent Adult Values
ECP	English Coastal Path
EGA	Expert Geomorphological Assessment
EIA	Environmental Impact Assessment
EPR	European Pressurised Reactor
ERG	Environmental Review Group
ES	Environmental Statement
ESC	East Suffolk Council
ExA	Examining Authority
FES	Final Expert Statement
FIEMP	Fish Impingement and Entrainment Monitoring Plan
FGS	Fish Guidance Systems Ltd
FMCF	Fen Meadow Contingency Fund
FMF	Freight Management Facility
FMP	Fen Meadow Plan
FRA	Flood Risk Assessment
GCN	Great Crested Newt
GDF	Geological Disposal Facility
GHG	Green House Gas
GRR	Green Rail Route
HCDF	Hard Coastal Defence Feature
HDV	Heavy Duty Vehicles
HGV	Heavy Goods Vehicle
HHE	Heveningham Hall Estate
HPC	Hinkley Point C
HRA	Habitat Regulations Assessment
IAQM	Institute of Air Quality Management
ICCI	In-Combination Climate Change Impact
ICES	International Council for Exploration of the Sea
IEA	Integrated Environmental Assessment
IEMA	Institute of Environmental Management and Assessment
IN	Issue Number
IP	Interested Parties
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
ISFS	Interim Spent Fuel Store
KPI	Key Performance Indicator
LEEIE	Land East of Eastlands Industrial Estate
LEMP	Landscape and Ecology Management Plan
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LMP	Lighting Management Plan

LoNI	Letters of No Impediment
LSE	Likely Significant Effect
LVSE	Low Velocity Side Entry
MBIF	Marine Bulk Import Facility
MDS	Main Development Site
MMO	Marine Management Organisation
MPS	Marine Policy Statement 2011
MTF	Marine Technical Forum
NE	Natural England
NEIF	Natural Environment Improvement Fund
NERC Act	The Natural Environment and Rural Communities Act 2006
NH	National Highways
NO <sub>x</sub>	Nitrogen Oxide
NO <sub>2</sub>	Nitrogen Dioxide
NPPF	National Planning Policy Framework
NPR	Northern Park and Ride
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NR	Network Rail
NRA	Navigational Risk Assessment
NRMM	Non-Road Mobile Machinery
NSIP	Nationally Significant Infrastructure Project
NSL	Nuclear Site Licence
NSN	National Site Network
NWL	Northumbrian Water Limited
oDMP	Outline Dust Management Plan
oLEMP	Outline Landscape and Ecological Management Plan
ONR	Office for Nuclear Regulation
OsMP	Outline Soil Management Plan
PA2008	Planning Act 2008
PM	Preliminary Meeting
PRoW	Public Right of Way
pSPA	Potential Special Protection Area
RNMP	Rail Noise Mitigation Plan
RSPB	Royal Society for the Protection of Birds
RSR	Radioactive Substances Regulations
SAC	Special Area of Conservation
SCC	Suffolk County Council
SCDF	Soft Coastal Defence Features
SHC	Suffolk Heritage Coast
sHRA	Shadow Habitat Regulations Assessment
SLR	Sizewell Link Road
SMP	Shoreline Management Plan
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SPA	Special Protection Areas
SPF	Spawning Production Foregone
SPR	Southern Park and Ride
SRMMP	Sabellaria Reef Management and Monitoring Plan
SSR	Sabellaria Spinulosa Reef
SSSI	Site of Special Scientific Interest
SWT	Suffolk Wildlife Trust
SZB	Sizewell B
TA	Transport Assessment
TASC	Together Against Sizewell C
TP	Temporary Possession
TIMP	Traffic Incident Management Plan



TRG	Transport Review Group
TVB	Two Village Bypass
W&C Act	Wildlife and Countryside Act 1981
WDA	Water Discharge Activity
WFD	Water Framework Directive
WFDCA	Water Framework Directive Compliance Assessment
WIA	Water Industries Act 1991
WINEP	Water Industry National Environment Programme
WMS	Written Ministerial Statement
WR	Written Representation
WRMP24	Water Resources Management Plan 2024
WRZ	Water Resource Zone
WSI	Written Scheme of Investigation