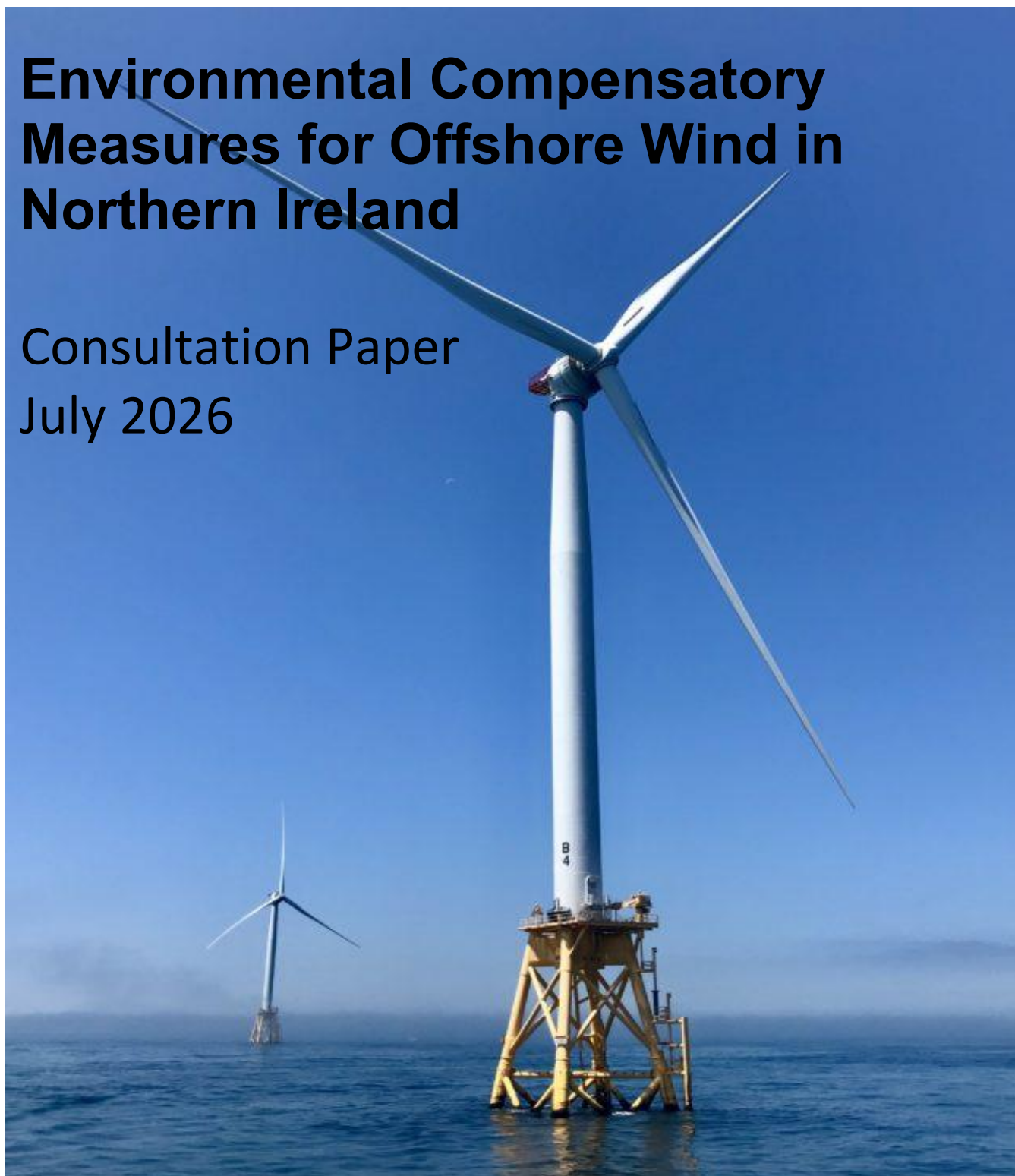


Environmental Compensatory Measures for Offshore Wind in Northern Ireland

Consultation Paper
July 2026



Department of
**Agriculture, Environment
and Rural Affairs**

An Roinn

**Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe**

Depairtment o'

**Fairmin, Environment
an' Kintra Matthers**

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To request an alternative format, please contact us:

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Guidance is provided on the Confidentiality of responses under the Freedom of Information Act 2000, in Annex B for your reference.

Responding to this Consultation

You are invited to respond to this consultation online by completing the Citizen Space response template which can be accessed using the link below:

<https://consultations2.nidirect.gov.uk/daera/consultation-on-environmental-compensatory-measure>

Please supplement your response with any relevant supporting information, evidence and/or analysis.

Consultation questions are included throughout the document at the relevant sections and are also reproduced in Annex C for ease of reference.

If you are unable to complete the survey online, please contact the team by email:

marinepolicyteam@daera-ni.gov.uk.

Any comments you may wish to make on the proposed applications should be submitted to Marine and Fisheries Division, on, or before, 21 September 2026, via the Public Consultation Citizen Space portal. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date.

Should you wish to provide supplementary information as part of your response, please email this to marinepolicyteam@daera-ni.gov.uk. This must be from the same email address detailed in your online response, so that they may be linked. You must confirm within your online response that this has been done.

If you are unable to respond using Citizen Space, please complete and send the Respondent Information Form to:

Marine Policy Team,
DAERA Marine and Fisheries Division,
Clare House,
303 Airport Road West,

Belfast, BT3 9ED

Timing and duration of this consultation

The consultation will commence on 20 July 2026 and close on 21 September 2026.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public on Citizen Space.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or email above.

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Executive Summary

Purpose of this consultation

This consultation seeks views on environmental compensation measures for offshore wind projects that are developed within the Northern Ireland inshore region (0-12 nautical miles). It sets out how environmental compensation should be identified and delivered where offshore wind projects give rise to unavoidable adverse effects on protected marine sites.

Policy context

The Offshore Wind Environmental Improvement Package (OWEIP) supports the growth of offshore wind by helping to de-risk and accelerate authorisation decisions while protecting and enhancing the marine environment. This consultation focuses on two elements of that package: strategic compensatory measures and the Marine Recovery Fund.

Proposed approach

The proposals are intended to introduce a more flexible approach to environmental compensation for offshore wind development. This includes enabling the use of wider compensatory measures where adverse effects on the integrity of protected sites cannot be avoided. The intention is not to reduce existing environmental protections. Rather, the proposals are intended to provide a more effective, strategic and deliverable means of securing compensatory outcomes.

Legislative and guidance changes

To support this approach, DAERA is considering amendments to the Habitats Regulations in Northern Ireland to allow a broader range of compensatory measures for offshore wind projects. Draft guidance is being developed alongside the proposed legislative changes to explain how the approach would operate in practice.

UK-wide alignment

A collaborative approach has been taken across the UK to support consistency in how these changes are applied. The UK Government has consulted on equivalent

amendments and the Conservation of Habitats and Species (Offshore Wind) Amendment etc.) Regulations 2026 are now in force, enabling wider compensatory measures for relevant offshore wind activities.

What we are seeking views on

This consultation seeks views on whether the proposals are clear, proportionate and workable in Northern Ireland. Stakeholder engagement to date indicates broad support in principle, subject to clear delivery arrangements, appropriate safeguards and practical guidance. Responses will help inform the finalisation of the guidance and the practical operation of the proposed approach in Northern Ireland.

Summary of proposed policy changes

- Amend the Habitats Regulations in Northern Ireland, using the powers in section 293 of the Energy Act 2023, to enable wider compensatory measures for offshore wind activities where compensatory measures are required under the derogation provisions.
- Allow compensatory measures to provide ecological benefit to the UK MPA network, rather than only to the specific protected feature affected by an offshore wind plan or project, where this is justified by evidence.
- Introduce a compensation hierarchy that prioritises measures which benefit the impacted feature first, then similar features, and then wider measures that benefit the UK MPA network.
- Enable strategic compensation to be delivered at plan level, project level, across multiple projects, or through a package of measures, where this would provide effective and proportionate environmental outcomes.
- Provide for the use of the Marine Recovery Fund as a voluntary delivery mechanism for strategic compensatory measures, rather than establishing a separate Northern Ireland fund.
- Require compensatory measures to be supported by evidence, demonstrate additionality, be proportionate to the adverse effects being addressed, and include appropriate monitoring and adaptive management where necessary.
- Support implementation through guidance, periodic review of the compensation hierarchy and guidance, and transparent governance arrangements including consideration of a public compensation register.

The consultation does not propose to weaken the mitigation hierarchy or remove the requirement for Habitats Regulations Assessment, the no alternatives test, the imperative reasons of overriding public interest test, or the requirement to secure necessary compensatory measures where adverse effects on site integrity cannot be ruled out.

1. Introduction

1.1 The need to support offshore renewable energy development

The Northern Ireland Energy Strategy, 'Path to Net Zero Energy', sets out a pathway towards a net zero energy system by 2050 and identifies offshore wind as a key component of the future energy mix. The Energy Strategy Action Plan 2022 established an initial target to deliver at least 1GW of offshore wind generation from 2030. Alongside this, the Environmental Improvement Plan includes an action to support the development of offshore renewable energy while protecting our marine environment.

Delivering Northern Ireland's offshore wind ambitions is a key component of addressing the climate and nature crises and realising wider economic opportunities associated with the transition to net zero.

1.2 Offshore Renewable Energy Action Plan (OREAP)

In response to the Northern Ireland Energy Strategy, the Department for the Economy (DfE) has developed the Offshore Renewable Energy Action Plan (OREAP). The OREAP seeks to support the sustainable development and delivery of at least 1GW of offshore wind generation in Northern Ireland waters while taking account of environmental sensitivities and statutory nature conservation obligations.

As part of its development, the OREAP has been informed by a Strategic Environmental Assessment (SEA), Habitats Regulations Assessment (HRA) and other environmental evidence to identify, where possible, areas and activities that may give rise to significant adverse environmental effects.

The SEA was undertaken as part of an iterative plan-making process. The development of the OREAP and the identification of the Recommended Resource Zones were

informed by the mapping and modelling of constraints, including environmental constraints. This process has helped to focus the plan on areas which seek to avoid those locations subject to the highest environmental risk.

The SEA identifies that potential adverse effects predicted at plan level should be taken forward for further consideration during subsequent stages of planning, refinement and project design, including through The Crown Estate's leasing process and project-level assessment.

An Appropriate Assessment has also been undertaken in accordance with the Habitats Regulations. This concluded that adoption of the OREAP, at plan level, will not adversely affect the integrity of any European site. The Appropriate Assessment conclusion is underpinned by reliance on project-level mitigation and, where necessary, environmental compensation for residual impacts.

This strategic approach follows the mitigation hierarchy by seeking to avoid and reduce potential impacts at plan level, before individual projects are brought forward.

However, strategic planning alone cannot eliminate all potential environmental effects associated with offshore wind development. Individual projects brought forward under OREAP will continue to be subject to project-level environmental assessments, including Habitats Regulations Assessment where required.

Through these processes, developers will be expected to demonstrate that impacts have been avoided, minimised and mitigated as far as reasonably practicable. Where residual adverse effects on the integrity of protected sites cannot be ruled out, compensatory measures may be required to ensure the overall coherence of the protected site network is maintained.

1.3 The Offshore Wind Environmental Improvement Package

The UK Government and the other devolved governments have also set ambitious targets for offshore wind energy and have recognised there will be challenges managing the balance between ambition for offshore wind energy and the need to

appropriately compensate for the adverse environmental effects. To address this issue, the Offshore Wind Environmental Improvement Package was developed at the UK level to help join up the significant expansion of offshore wind energy with protecting the marine environment.

The Offshore Wind Environmental Improvement Package provides a coordinated UK-wide approach to supporting offshore wind delivery and has the following aims:

- to broaden the available compensatory measures for the unavoidable adverse impacts of offshore wind activities in MPAs through environmental compensation measure reform;
- to enable measures to compensate for the adverse environmental effects of offshore wind be taken at a strategic level across multiple projects (rather than individual project by individual project);
- to set up one or more Marine Recovery Funds to deliver these strategic measures on behalf of developers;
- to develop Offshore Wind Environmental Standards (OWES) to set a minimum common requirement for designing offshore wind projects to reduce discussion time between applicants and statutory nature conservation bodies in agreeing suitable mitigation;
- to take steps to better manage marine noise from offshore wind developments; and
- to develop a strategic approach to environmental monitoring.

Primary legislation was required to provide for strategic compensation measures and to enable the establishment of one or more Marine Recovery Funds. These provisions were introduced through the Energy Act 2023.

1.4 What is Strategic Compensation

Strategic compensation refers to a coordinated approach to the delivering environmental compensation for adverse effects on protected habitats and species arising from offshore wind development.

It can enable compensatory measures to be delivered at a scale or in a way that is more effective, efficient or deliverable than a project-by-project approach.

Strategic compensatory measures may be delivered:

- at scale
- over extended timeframes, for example, there may be instances where compensation may not become fully functional until after the impact of the plan or project occurs
- at the plan level, by Government, or project level by offshore wind developers
- across multiple offshore wind projects
- by a single project with multiple adverse effects
- through the delivery of **wider measures**

The use of strategic compensation has the potential to support more effective environmental outcomes, improve coordination across projects, and support a more streamlined planning and consenting process for offshore wind.

1.5 Geographic Scope of Policy

DAERA is responsible for policy relating to the marine environment in the Northern Ireland inshore region and the Secretary of State (Defra) is responsible for the offshore region.

Following its July 2025 consultation on offshore wind environmental compensation reforms¹, the UK Government brought the Conservation of Habitats and Species (Offshore Wind) (Amendment etc.) Regulations 2026 into force on 21 May 2026. These amendments apply to England and Secretary of State waters, which includes the Northern Ireland offshore region. Defra has also published statutory guidance²³.

The Scottish Government consulted on its proposed strategic compensation policy⁴ in July 2025 and a draft SI has been laid in the Scottish Parliament.

¹ [Consultation on Offshore Wind Environmental Compensatory Measures Reforms - Defra - Citizen Space](#)

² [Part 1: When and how to compensate for environmental harm \(offshore wind\) - GOV.UK](#)

³ [Part 2: Compensation hierarchy and evidence required \(offshore wind\) - GOV.UK](#)

⁴ [3. Enabling Wider Measures - Offshore wind - strategic compensation policy: consultation - gov.scot](#)

This consultation sets out proposals for how the Offshore Wind Environmental Improvement Package will be applied in the Northern Ireland inshore region (0–12 nautical miles).

The proposals in this consultation have been developed to align, where appropriate, with the policy approaches adopted by the UK Government and the Scottish Government. They reflect a shared UK approach to strategic compensation, wider compensatory measures, the compensation hierarchy and participation in the Marine Recovery Fund. However, the proposals have been tailored to reflect Northern Ireland's legislative responsibilities, marine planning framework and the scale and characteristics of planned offshore wind development within the Northern Ireland inshore region.

2. Current arrangements for planning and authorising offshore wind projects in the Northern Ireland inshore region

2.1 Planning and authorising offshore wind projects

The draft Marine Plan for Northern Ireland provides the overarching framework for marine decision-making and requires relevant authorities to apply the mitigation hierarchy when considering development proposals. Through marine planning, Strategic Environmental Assessment, Habitats Regulations Assessment and project-level assessment, potential environmental effects should first be avoided, then reduced, minimised and mitigated wherever possible. Compensation should only be considered where residual adverse effects remain and all other reasonable options have been exhausted.

Offshore wind projects in the Northern inshore region will require the following authorisations:

- a marine licence issued by DAERA under the Marine and Coastal Access Act 2009
- generating consent from the Department for the Economy (DfE) for offshore wind projects above 1MW, under Article 39 of the Electricity (Northern Ireland) Order 1992

- planning permission for onshore activities (landward of mean low water springs), granted under the Planning Act (Northern Ireland) 2011.

In bringing forward offshore wind projects, developers must assess the environmental impacts of developments on MPAs under the following regulatory regimes:

Habitats Regulations Assessments (HRAs)

In accordance with Regulation 43(1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended), the competent authority must consider whether the project, plan or proposal either alone or in combination (neither being directly connected with or necessary to the management of the site) is likely to have a significant effect on the European site. For this purpose, a Habitats Regulations Assessment (HRA) should be completed to assess impacts on SACs, SPAs and Ramsar Sites.

If a plan or project is likely to significantly affect an SAC, SPA or Ramsar site, either alone or in combination with other plans or projects and is not directly connected with or necessary for the site's management, it requires an "appropriate assessment" to be carried out under the Habitats Regulations.

Having considered the environmental impacts predicted by specific assessments, the competent authority cannot consent any plan or project unless satisfied there would be no adverse effect on the integrity of an SAC, SPA or Ramsar site.

However, under the Habitats Regulations, a 'derogation' (provided by Regulations 44 and 48) can allow a development to proceed despite a risk of adverse effect on the integrity of the protected site. This is permissible if the competent authority determines that there are no alternative solutions and the development is necessary for imperative reasons of overriding public interest (IROPI). In such cases, the appropriate authority must ensure that compensatory measures are secured to protect the overall coherence of the National Site Network of SACs and SPAs.

MCZ assessments

Section 23 of the Marine Act (Northern Ireland) 2013 places specific duties on public

authorities with respect to authorisation of an act that is capable of affecting (other than insignificantly):

- the protected features of an MCZ;
- any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent.

The applicant or plan promoter must demonstrate that:

- there are no alternative ways to proceed with the development that would create a substantially lower risk of hindering the achievement of the MCZ's conservation objectives
- the public benefit of proceeding with the development clearly outweighs the risk of damage to the environment it will cause
- The person seeking authorisation will undertake, or arrange for, Measures of Equivalent Environmental Benefit (MEEB) to the damage which the development will or is likely to have in or on the MCZ.

Under these processes, it is the responsibility of the relevant authority to ensure that compensatory measures are secured where required. Appropriate measures to address any adverse effect must be identified before a proposal is allowed and conditioned on any approval.

2.2 The Need for Change

Due to the potential scale and impact of proposed offshore wind development in Northern Ireland, it is likely that offshore wind plans and projects will be required to undergo the derogations process under the Habitats Regulations and secure suitable compensatory measures. It is anticipated that the requirement for compensatory measures will be triggered for adverse effects on protected seabird species and potentially also on marine mammals or protected habitats.

Under the current approach, compensatory measures under the Habitats Regulations need to be secured to ensure that the overall coherence of the national site network (SACs, SPAs and Ramsar sites) is protected. Current practice is generally to require 'like-for-like' compensation, with measures directed at the impacted habitat or species

(impacted feature). However, in practice, the availability of suitable measures targeting the impacted features can be limited. This can create challenges for identifying deliverable compensation packages and may delay decision making for offshore wind projects.

The inability to secure necessary compensation measures, without undue delay, poses a risk to achieving the targets of the Northern Ireland Energy Strategy.

The proposals set out in this consultation seek to provide a more flexible approach to identifying and delivering compensatory measures, while maintaining the requirement to protect the marine environment.

3. Proposed use of strategic compensation measures

3.1 Policy purpose

The purpose of the policy is to provide a clear and workable approach to environmental compensation under the Habitats Regulations for offshore wind projects in Northern Ireland. It seeks to support offshore wind delivery through the use of strategic compensation measures that provide benefits to the UK MPA network and contribute to the conservation and improvement of the marine environment.

Our proposals do not include making changes to the MCZ assessment process.

We are proposing the following changes to the Habitats Regulations derogations stage for offshore wind projects:

- Enabling environmental compensation to be delivered through **wider compensatory measures** which provide benefits to the UK MPA network; and
- Creating **environmental safeguards** which include a **compensatory hierarchy** that requires compensatory measures directly targeting the impacted feature are considered ahead of wider compensatory measures

These changes can be made using the provisions in section 293 of the Energy Act 2023 to amend regulation 48 of the Conservation (Natural Habitats, etc.) Regulations

(Northern Ireland) 1995.

Regulations under section 293 may be made through a Statutory Rule (SR) that follows the affirmative resolution procedure.

3.2 Guidance on compensation measures

We are proposing that there will be a requirement for DAERA to publish guidance on compensation measures for offshore wind plans or projects. This will set out how the changes proposed in this consultation would be applied in practice, including the use of wider measures, the compensation hierarchy and evidential expectations.

There will be a requirement for DAERA to consult the Secretary of State, Scottish Ministers and Welsh Ministers in relation to any proposed revisions to the guidance and the compensation hierarchy.

3.3 Enabling Wider Compensation Measures

We are proposing to amend Regulation 48 of the Habitats Regulations that requires that necessary compensatory measures are secured to protect the overall coherence of the National Site Network. The SR will also amend certain requirements under the Habitats Regulations to exercise functions so as to secure compliance with the Habitats Directive and Wild Birds Directive whilst ensuring robust safeguards are in place. These amendments will only apply to offshore wind activities.

The amendments to the Habitats Regulations will enable the use of wider compensatory measures that provide ecological benefit to the UK MPA network. The compensatory measures should be reasonably proportionate to the adverse effects, or predicted adverse effects, of the relevant offshore wind plan or project on the integrity of the European site, European offshore marine site or Ramsar site.

Wider compensatory measures are defined as compensatory measures that provide an ecological benefit to the UK MPA network rather than the specific feature impacted. Wider compensatory measures can provide benefits by, for example, targeting a similar feature to the feature impacted or large-scale pressures that impact a number of

protected features or sites.

Under this proposed approach, for illustrative purposes, 'similar features' may be an MPA feature that is of a comparable type to the feature impacted e.g. for seabirds – if a surface feeding seabird is impacted then an alternative surface feeding seabird species which has a similar function or service might be deemed a similar feature. The appropriateness of a particular wider measure for a given impact on a protected site feature will always be considered on a case-by-case basis.

Under this proposed approach, for illustrative purposes, large-scale pressures' may be activities, or mechanisms in which an activity is, impacting the MPA network at scale, e.g. across multiple sites. For example, physical impacts on habitats, input of materials or other activities impacting water quality, or climate change-related impacts.

Wider compensatory measures may be appropriate where it is not possible to identify sufficient measures that directly benefit the impacted feature, or where a wider measure can be demonstrated to provide a greater overall ecological benefit to UK MPA network.

Wider measures can include actions that:

- address pressures affecting multiple protected sites or species;
- support the recovery or improvement of habitats or species within the UK MPA network; or
- improve the resilience of the marine environment to ongoing or future pressures.

Q1. Do you agree with the proposed strategic approach to compensation for offshore wind, including the use of wider compensatory measures where these are supported by evidence, while maintaining existing environmental protections?

3.4 Compensation hierarchy

There will be a requirement to follow a compensation hierarchy that sets out a structured approach to identifying compensatory measures, prioritising those that provide the most direct ecological benefit, while allowing flexibility where this can deliver

a more effective outcome for the UK MPA network.

The proposed compensation hierarchy includes three tiers:

Tier 1 – Benefit to the Impacted Feature

Tier 1 includes measures that provide ecological benefit directly to the feature that is affected by the plan or project. These measures are expected to be considered first, as they provide the most direct link between the impact and the compensatory action.

Where possible, measures should aim to benefit the impacted feature at or close to the affected site. However, in some cases, measures delivered for the same feature(s) but at another location(s), either within Northern Ireland or elsewhere within the UK MPA network, may provide greater ecological benefit and may be considered where justified.

In all cases, the selection of measures should be informed by ecological evidence and take account of what will deliver the most effective outcome for the UK MPA network.

Tier 2 – Benefit to a Similar Feature

Tier 2 includes measures that provide ecological benefit to a feature that is ecologically similar to the feature impacted. This may include species or habitats that perform a comparable ecological role or function within the UK MPA network.

In identifying appropriate Tier 2 measures, consideration should be given to how well the proposed measure reflects the function and location of the impacted feature, and whether it will deliver meaningful ecological benefit at a relevant scale.

Tier 2 measures may be appropriate where:

- suitable Tier 1 measures are limited or not available; or
- the measure is expected to deliver a greater overall ecological benefit to the UK MPA network.

Tier 2 measures may be used alongside Tier 1 measures as part of a package, or independently where this can be justified on ecological grounds.

Tier 3 – Benefit to UK MPA Network (wider measures)

Tier 3 includes measures that provide ecological benefit to the UK MPA network.

These may be appropriate where:

- suitable measures at Tier 1 or Tier 2 are not reasonably available or would not be proportionate; or
- it can be demonstrated that a Tier 3 measure, alone or in combination with other measures, would deliver a more effective ecological outcome for the UK MPA network.

Tier 3 measures are not intended to become the default option and must be supported by clear evidence and justification. Tier 3 measures may be used alongside measures from other tiers, or on their own where this can be justified.

When proposing Tier 3 measures, it should be demonstrated how the measures will provide benefits to the UK MPA network that are proportionate to the adverse effects, or predicted adverse effects, of the relevant offshore wind plan or project on the integrity of the European site, European offshore marine site or Ramsar site.

Q2. Do you agree with the proposed compensation hierarchy?

3.5 Evidence for Wider Measures

All compensatory measures must be supported by evidence that they will deliver ecological benefit and help protect the protected site network.

In applying the compensation hierarchy, evidence should demonstrate how proposed measures will:

- deliver ecological benefit to the impacted feature (Tier 1), a similar feature (Tier 2), or the UK MPA network (Tier 3); and
- provide a level of ecological benefit that is proportionate to the impacts of the plan or project.

For wider measures in particular (Tier 3), it should be clearly demonstrated how the

proposed action will:

- contribute to recovery or improvement of the UK MPA network;
- address relevant environmental pressures; and
- deliver measurable outcomes over time.

Where a wider measure is proposed in preference to a higher-tier measure, the evidence must clearly explain why this approach would deliver a more effective ecological outcome.

Evidence should be based on the best available scientific information and may include:

- existing monitoring data or evidence;
- established ecological understanding; or
- expert advice.

Where there is uncertainty, this should be identified and addressed through appropriate measures, such as enhanced monitoring or adaptive management.

At project level, applicants will be expected to provide clear justification and supporting evidence as part of their consent or licence application. At plan level, a similar justification should be provided to support the proposed approach.

Further details on evidence requirements and examples will be provided in guidance.

Q3. Is the proposed approach to evidencing ecological benefit, proportionality and contribution to the UK Marine Protected Area network sufficiently clear?

Q4. What additional guidance, examples or evidence requirements would support effective implementation?

3.6 Flexibility in the Compensation Hierarchy

We recognise that flexibility in the application of the compensation hierarchy may be important to achieve the most effective ecological outcomes and there will be some flexibility in moving between tiers. In particular, it may be appropriate to use a Tier 2 or Tier 3 measure even where measures in a higher tier are available, where it can be demonstrated that doing so would deliver a greater ecological benefit to the UK MPA

network.

Any such approach must be supported by clear evidence and justification, including an explanation of why measures in a higher tier would be less effective or proportionate.

In some circumstances, the most effective outcome may be achieved through a combination of measures across different tiers. For example, a proposal may include both measures that directly benefit the impacted feature and measures that provide wider benefit to the UK MPA network. Where measures across tiers are proposed, this should be clearly justified and supported by evidence demonstrating how the overall package of measures will deliver an effective and proportionate ecological outcome.

- Q5.** Does the proposed hierarchy provide sufficient clarity on:
- how to move between tiers; and
 - when flexibility, including combining measures across tiers, may be appropriate?

3.7 Additionality

All compensatory measures should be additional to normal practice for managing the site or sites that will benefit from the measure. For offshore wind plans and projects, normal practice could mean either:

- site conservation measures that are currently being delivered
- planned site conservation measures that have an identified delivery mechanism in place - this could include any necessary regulatory or enforcement action by a public body

If a proposed compensatory measure does not fall within the scope of normal practice for site management, it may be considered additional.

If a proposed compensatory measure falls within the scope of normal practice, it may still be considered additional if it can be reasonably expected to accelerate the achievement of a site's conservation objectives by improving on normal practice. In such circumstances, only the additional environmental benefit that has resulted from

improving on normal practice for site management will be considered as ecological benefit provided by the compensatory measure.

3.8 Timing of Compensation Measures

Compensatory measures should typically be in place and effective by the time at which damage to a protected area begins. However, in some circumstances, it may be appropriate for measures to become fully effective after impacts occur.

Where this approach is proposed, it should be demonstrated that risks are appropriately managed, including through monitoring, contingency measures and adaptive management.

Further detail on the timing of compensation, including the circumstances in which delayed effectiveness may be appropriate, will be set out in guidance.

3.9 Overcompensation

Overcompensation refers to measures that deliver ecological benefit beyond that required to address the impacts of a plan or project.

Developers or plan authorities may choose to deliver additional measures where this provides wider environmental benefit.

Further detail on the circumstances in which overcompensation may be appropriate will be set out in guidance.

- Q6.** Do you agree with the proposed approach to:
- additionality;
 - timing of compensation; and
 - flexibility, including overcompensation?

3.10 Adaptive Management

Adaptive management is the process of monitoring the effectiveness of compensatory measures and making adjustments where necessary to ensure that intended outcomes are achieved.

Compensatory measures should include appropriate monitoring and, where necessary, mechanisms for adjustment or replacement of measures if they are not delivering the expected outcomes.

Further detail on the application of adaptive management, including in relation to measures delivered through the Marine Recovery Fund, will be set out in guidance.

Q7. Do you agree with the proposed approach to monitoring, uncertainty and adaptive management?

3.11 Approval of strategic compensation measures

Defra has established a Library of Strategic Compensatory Measures⁵ that offshore wind developers can use to support their derogation case when making an application for an offshore wind project.

For a wider compensation measure to be included in the library of measures for use in the Northern Ireland inshore region, it will need to be approved by the DAERA Minister and the Secretary of State.

Currently, the library includes measures relating to benthic habitats and seabirds and if the proposals in this consultation are introduced, the DAERA Minister will consider whether the existing measures in the library may be used in the Northern Ireland inshore region.

Q8. Are the proposed arrangements for approving strategic compensation measures sufficiently clear and transparent? Are the proposed arrangements for approval and assurance of compensatory measures, including the role of the Library of Strategic Compensatory Measures, clear and appropriate?

4. Environmental Safeguards

⁵ <https://www.gov.uk/guidance/offshore-wind-development-library-of-strategic-compensatory-measures>

4.1 Continued compliance with environmental obligations and international law

Environmental safeguards will ensure that compensatory measures benefit the UK MPA network. This is in accordance with DAERA's duties under section 20 of the Marine Act (Northern Ireland) to establish a network of MPAs that contribute to the overall UK MPA network.

The MPA network in the Northern Ireland inshore region will continue to contribute to the conservation or improvement of the marine environment in the UK marine area and is a key measure in supporting achievement of the UK Marine Strategy objective of 'good environmental status'.

This will ensure that DAERA and the UK government are continuing to implement obligations relating to domestic and wider protected area networks under international treaties (for example, Bern and OSPAR) that UK MPAs contribute to.

4.2 Mitigation Hierarchy

The mitigation hierarchy will remain the starting point for all plans and projects. This reflects the approach set out in the draft Marine Plan for Northern Ireland and this consultation does not propose any changes to the application of the mitigation hierarchy.

The mitigation hierarchy must be applied in full before any consideration of compensation measures. The mitigation hierarchy stages are as follows:

- **Avoid:** Taking action to prevent an impact from occurring;
- **Reduce:** Taking action to minimise an impact to a non-significant level;
- **Mitigate:** Taking action to lessen the consequences of an impact that cannot be avoided or reduced;
- **Minimise:** Reduce residual impacts as far as reasonably practicable; and
- **Compensate:** Address unavoidable residual adverse effects.

Compensation is a measure of last resort and applicants must provide evidence of how all feasible options to avoid, minimise and mitigate adverse impacts have been

considered before compensation is proposed.

5. Delivery Mechanisms

5.1 Marine Recovery Fund

The Marine Recovery Fund is a government-managed fund that plan and project promoters can pay into to secure appropriate and strategic compensatory measures to compensate for the adverse effects of offshore wind plans and projects on MPAs.

The Marine Recovery Fund can be used to deliver compensatory measures at all tiers.

Given the relatively small number of offshore wind projects that are expected in the Northern Ireland inshore region, it is considered more cost effective to utilise the Marine Recovery Fund that has been established by Defra than establishing a separate Northern Ireland Marine Recovery Fund.

The use of the Marine Recovery Fund is intended to support the timely delivery of compensatory measures and enable measures to be delivered at a strategic scale, while maintaining environmental protections. Participation in the Marine Recovery Fund will be voluntary, and developers may choose to deliver compensatory measures directly where appropriate.

Guidance will explain how the Marine Recovery Fund will operate, including access and delivery arrangements.

Q9. Do you agree that Northern Ireland should utilise the UK Marine Recovery Fund rather than establish a separate Northern Ireland fund?

Q10. Are there any Northern Ireland-specific considerations that should be reflected in the operation of the Marine Recovery Fund?

6. Governance and Monitoring

6.1 Governance

The Collaboration on Offshore Wind Strategic Compensation (COWSC) programme was created for the purpose of developing and implementing strategic compensation measures. The COWSC programme is led by Defra and includes representatives from

the Department for Energy Security and Net Zero, The Crown Estate, the Offshore Wind Industry Council, Devolved Governments and their SNCBs, the Marine Management Organisation, the Joint Nature Conservation Committee, Natural England, RSPB, and The Wildlife Trust.

The Programme Board holds the programme to account to ensure COWSC achieves its goal of developing strategic compensatory measures and adding them to the Library of Strategic Compensatory Measures. Decisions on which measures are added to the Library ultimately rest with the Defra Minister, or the relevant Devolved Government Minister.

6.2 Role of DAERA conservation advisers

Statutory Nature Conservation Bodies will continue to provide advice on compensatory measures, including their ecological effectiveness and suitability within the compensation hierarchy.

DAERA is responsible for the statutory nature conservation functions in Northern Ireland and applicants should engage with DAERA conservation advisers at an early stage to inform the identification and design of compensatory measures.

Advice from DAERA conservation advisors will support decision-making on the appropriateness of compensatory measures, including the use of wider measures where proposed.

Further details on the role of DAERA conservation advisers will be set out in guidance.

6.3 Periodic Review of Guidance

There will be a requirement to periodically review the compensation hierarchy and any guidance that has been published. DAERA will be required to publish a report setting out the conclusions of that review within 5 years of when the compensation hierarchy and associated guidance is published. Subsequent reports must be published at intervals not exceeding 5 years.

6.4 Public Compensation Register

Defra has proposed to create a register that tracks the use of compensatory measures across the UK MPA network. The register is intended to provide transparency by opening up more information on what measures currently exist and what can be done to provide a greater environmental benefit. It will also help in tracking the wider compensatory measures capacity if projects choose to implement outside of the Marine Recovery Fund. Establishing a register would also help to inform the periodic review of the compensation hierarchy and guidance.

There was widespread support for the proposal and Defra is continuing to explore options for delivering the register, including holding discussions with potential operators, estimating the cost of different solutions, and identifying information the register should contain.

- Q11.** Are the proposed governance arrangements, including the potential use of a public compensation register, clear and sufficient to support confidence in the system?

Q12. Do you agree with the proposed approach to reviewing the guidance and associated policy framework, and do you have any other comments on the proposals?

Annex A – Glossary

<u>Term</u>	<u>Definition</u>
AA (Appropriate Assessment)	The detailed assessment undertaken under the Habitats Regulations to determine whether a plan or project would adversely affect the integrity of a protected site.
AEOSI (Adverse Effect on Site Integrity)	A conclusion that a plan or project would adversely affect the integrity of a protected site, either alone or in combination with other plans or projects.
Compensation hierarchy	The proposed sequence for identifying compensatory measures, starting with measures that directly benefit the impacted feature, then similar features, and finally wider measures that benefit the protected site network as a whole.
Compensatory measure	A measure secured to offset residual adverse effects on a protected site where a plan or project proceeds under the derogation provisions of the Habitats Regulations.
DAERA	The Department of Agriculture, Environment and Rural Affairs in Northern Ireland.
Defra	The Department for Environment, Food and Rural Affairs, the UK Government department responsible for environmental policy in England and for certain UK-wide offshore wind compensation arrangements.
DfE	The Department for the Economy in Northern Ireland
DfI	The Department for Infrastructure in Northern Ireland.
Energy Act 2023	UK legislation that provides powers for strategic compensation, Marine Recovery Funds and related offshore wind environmental compensation reforms.
HRA (Habitats Regulations Assessment)	The assessment process required under the Habitats Regulations to determine whether a plan or project is likely to have a significant effect on a protected site.
Northern Ireland	The area of territorial sea adjacent to Northern Ireland, extending from Mean High Water Springs to 12 nautical miles

inshore region	offshore. DAERA is responsible for marine environmental policy within this area.
IROPI (Imperative Reasons of Overriding Public Interest)	The test under the Habitats Regulations that may allow a plan or project to proceed despite adverse effects on site integrity where there are no alternatives and overriding public interest applies.
Library of Strategic Compensatory Measures (LoSCM)	The proposed portfolio of approved strategic compensatory measures that may be available for use by offshore wind projects.
Likely Significant Effect (LSE)	The threshold in the Habitats Regulations for determining whether an Appropriate Assessment is required.
Marine Recovery Fund (MRF)	A voluntary mechanism through which offshore wind developers may contribute to the delivery of strategic compensatory measures.
MCZ (Marine Conservation Zone)	A protected marine area designated under the Marine Act (Northern Ireland) 2013.
MEEB (Measures of Equivalent Environmental Benefit)	Measures required under MCZ legislation to compensate for damage to an MCZ where a development is authorised.
Mitigation hierarchy	The sequential approach of avoid, reduce, minimise and mitigate environmental effects before compensation is considered.
MPA (Marine Protected Area)	A general term covering protected marine sites, including SACs, SPAs and MCZs.

Offshore region	The area of UK waters beyond 12 nautical miles from the Northern Ireland coast. Environmental compensatory measures policy within this region is the responsibility of the Secretary of State.
OWEIP (Offshore Wind Environmental Improvement Package)	A suite of UK level measures to support the growth of offshore wind by helping to de-risk and accelerate planning decisions while protecting the marine environment.
OREAP (Offshore Renewable Energy Action Plan)	The Northern Ireland strategy and planning framework for the sustainable development of offshore renewable energy.
SAC (Special Area of Conservation)	A protected site designated for important habitats and species under the Habitats Regulations framework.
SEA (Strategic Environmental Assessment)	An assessment process used to evaluate the environmental effects of plans and programmes at a strategic level.
SPA (Special Protection Area)	A protected site designated for the conservation of wild birds under the Habitats Regulations framework.
Statutory Nature Conservation Bodies (SNCBs)	The public bodies that provide statutory nature conservation advice to government and regulators. In Northern Ireland this includes DAERA, the Northern Ireland Environment Agency (NIEA), with relevant UK SNCBs involved where appropriate.
Strategic compensatory measure	A compensatory measure delivered at a strategic level, potentially across multiple projects, sites or timeframes, rather than solely on a project-by-project basis.

(SCM)	
Statutory Rule (SR)	A form of secondary legislation made by a Northern Ireland Department under powers granted by primary legislation.
Wider compensatory measure	A compensatory measure that provides an ecological benefit to the UK MPA network rather than the specific feature impacted.

Annex B – Freedom of Information

In line with the Department's policy of openness, at the end of the consultation period, copies of the responses received may be made publicly available. The information they contain may also be published in a summary of responses, which will be placed on the internet at www.daera-ni.gov.uk/publications.

This summary will include a list of names of organisations or sectors that responded but not personal names, addresses or other contact details.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form provided alongside this document.

Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and this will provide you with guidance on the legal position about any information submitted by you in response to this consultation.

Section 8(e) of the Data Protection Act 2018 permits processing of personal data when necessary for an activity that supports or promotes democratic engagement.

Information provided by respondents to this stakeholder engagement exercise will be held and used for the purposes of the administration of this current exercise and subsequently disposed of in accordance with the provisions of the Data Protection Act 2018 and the General Data Protection Regulation. For more information and to view the DAERA Privacy Statement please go to: <https://www.daera-ni.gov.uk/publications/daera-privacy-statement-document>.

The FOI Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential. If you do not wish

information about your identity to be made public, please include an explanation in your response including any harm you believe such a disclosure might cause.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the FOI Act provides that:

- The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- The Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature, acceptance by the Department
- of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner. For further information about confidentiality of responses please contact the Information Commissioner's Office, or visit the ICO Website
- If you do not consent to this, you must explicitly request that your response be treated confidentially, detailing your reasons for this request. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.

Annex C – Summary of Consultation Questions

Respondents are encouraged to provide evidence, examples or supporting analysis where possible.

Q1. Do you agree with the proposed strategic approach to compensation for offshore wind, including the use of wider compensatory measures where these are supported by evidence, while maintaining existing environmental protections?

Q2. Do you agree with the proposed compensation hierarchy?

Q3. Is the proposed approach to evidencing ecological benefit, proportionality and contribution to the UK Marine Protected Area network sufficiently clear?

Q4. What additional guidance, examples or evidence requirements would support effective implementation?

Q5. Does the proposed hierarchy provide sufficient clarity on:

- how to move between tiers; and
- when flexibility, including combining measures across tiers, may be appropriate?

Q6. Do you agree with the proposed approach to:

- additionality;
- timing of compensation; and
- flexibility, including overcompensation?

Q7. Do you agree with the proposed approach to monitoring, uncertainty and adaptive management?

Q8. Are the proposed arrangements for approving strategic compensation measures sufficiently clear and transparent? Are the proposed arrangements for approval and

assurance of compensatory measures, including the role of the Library of Strategic Compensatory Measures, clear and appropriate?

Q9. Do you agree that Northern Ireland should utilise the UK Marine Recovery Fund rather than establish a separate Northern Ireland fund?

Q10. Are there any Northern Ireland-specific considerations that should be reflected in the operation of the Marine Recovery Fund?

Q11. Are the proposed governance arrangements, including the potential use of a public compensation register, clear and sufficient to support confidence in the system?

Q12. Do you agree with the proposed approach to reviewing the guidance and associated policy framework, and do you have any other comments on the proposals?

For further information:

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