09 May 2025

Consultation for the Establishment of the MRF
Marine Recovery Fund (MRF) Team
Department for Environment, Food & Rural Affairs (Defra)
2 Marsham Street, London, SW1P 4DF

Dear Amy Ferguson,

Response to: Defra Consultation for the Establishment of the Marine Recovery Fund (March 31, 2025)

Scottish Renewables (SR) welcomes the opportunity to share the views of our members with the Department for Environment, Food and Rural Affairs (Defra) consultation for the establishment of the Marine Recovery Fund (MRF). We have opted to provide our response within this letter, as well as respond to the consultation questions below.

In response to this consultation, our members have highlighted the following key points, which are covered in further detail below:

- Our members broadly support the proposed process for the MRF and, in principle, agree with most of the proposed approaches.

- While the MRF offers a welcome standardised pathway for developers to contribute to a central fund, rather than creating bespoke solutions, our members agree that it will not necessarily significantly accelerate the deployment of projects that are not yet consented or in the application process. This reflects concerns that the current access requirements may be more complex or duplicative than necessary. We would welcome efforts to ensure they are proportionate and practical, thereby facilitating timely implementation.

- We welcome the intention to align the Marine Recovery Fund (MRF) with the Scottish Marine Recovery Fund (SMRF), as a consistent approach across jurisdictions will support clarity and coherence for developers operating in different parts of the UK.

- However, it is essential that both Funds are aligned not only in intent but also in their processes, funding mechanisms, and expectations. Without such alignment, there is a risk of 'forum shopping', where developers may favour one fund over another if it is perceived to be more flexible, cost-effective, or administratively straightforward. Ensuring consistency will help maintain a level playing field, support effective compensation delivery, and reinforce the integrity of the overall strategic compensation framework.

- Our members do not support Natural England being a decision maker for projects applying to the Scottish MRF and/or having the ability to object or request certain compensations, as this will delay and complicate the consenting and assessment process, rather than help streamline it. Instead, these powers should solely be reserved for NatureScot in Scotland. Ensuring this is clear and managed correctly from the outset is crucial. Otherwise, there is a risk of disincentivising Scottish projects.

- The MRF has the potential to streamline compensation by coordinating actions at scale, focusing on ecological priorities, and unlocking synergies, rather than requiring every developer to find limited compensation opportunities (e.g., kittiwake nesting structures). If supported by Defra, Natural England, and the Marine Management Organisation (MMO), in alignment with the Scottish Government and NatureScot, it could provide more legal and policy certainty, reducing the risk of judicial reviews and costly delays.

- Our members agree that the MRF could be significantly strengthened by enabling early-stage funding for strategic compensation measures (SCMs) with long lead times, adopting an adaptive management approach informed by robust monitoring, and increasing transparency through regular reporting. In addition, fostering collaboration with industry and NGOs will be critical to supporting effective, scalable, and timely compensation delivery.

- While our members acknowledge that upcoming Environmental Assessment reform will shape some of these processes, we encourage Defra to ensure that the MRF supports wider, ecosystem-focused measures and does not simply function as a repository for existing developer-led compensation. There is a risk that without a more aspirational vision, the MRF could default to a reactive, administrative tool rather than fulfilling its potential as a proactive driver of nature recovery.

- Defra as Marine Recovery Fund Operator (MRFO): the consultation confirms that Defra will act as the MRFO, responsible for both managing the MRF and developing the Library of Strategic Compensation Measures (LoSCM) it will fund. While we support Defra's role of managing and implementing the MRF, some of our members are concerned that concentrating these roles within Defra may reduce accountability and external oversight. Some members suggest that a third party, similar to the Low Carbon Contracts Company (LCCC), as the counterparty to the Contracts for Difference (CfD) scheme, could manage the MRF to ensure appropriate checks and balances.

- Our members highlight the urgent need to expand the LoSCM, as limited availability of SCMs could become a significant bottleneck to rapid deployment and full utilisation of the MRF. Prioritising the development and diversification of the LoSCM will be essential to ensure compensation measures are ecologically viable and readily implementable.

- Without a move away from the need for like-for-like compensation and the requirement to maintain the ecological coherence of the network, the MRF and SMRF will be very limited in the measures they can offer. The LoSCM currently proposed in the MRF are reasonable for English projects at present, but would not be workable for Scottish projects, which require gannet compensation, and where offshore artificial nesting structures (oANS) are not an accepted measure for kittiwake. In addition, adequate resourcing will be critical to ensure the MRF does not simply shift delays from the consenting process to the MRF (or SMRF) application process.

- The MRF is intended to allow applicants to discharge compensation obligations through payment, with Defra responsible for delivering the associated SCMs. Despite reassurances in the consultations, our members remain concerned about the legal risks to a project's Habitats Regulations Assessment (HRA) compliance if Defra does not deliver SCMs on time. Currently, there is no clear incentive for Defra to deliver SCMs on time. Our members suggest that it is imperative for Defra to indemnify developers in such circumstances and provide confirmation that HRA conditions are discharged upon acceptance and payment of the SCM.

- Having two funds, a Defra MRF and a Scottish MRF, raises questions about which fund particular measures will sit in. For example, predator eradication opportunities are largely only available in Scotland because the majority of the UK's seabirds breed in Scotland. Presumably, the SMRF would want to retain these measures for Scottish projects. However, English and Welsh projects will need to compensate for species such as puffin and razorbill from predicted damage to English Special Protection Areas (SPAs) (not Scottish SPAs). For these impacts, English projects would be expected to use the MRF. However, the MRF is unlikely to have sufficient compensation for these species unless it has access to compensation that can be delivered in Scotland. Our members agree that further clarity is needed regarding how the two funds will work together, which measures will be available in which fund, and how developers will access these.

- Further clarity is also needed on how the MRF and SMRF interact with strategic plans, for example, compensation measures identified through the Crown Estates HRA for offshore wind leasing round 5, and HRA work currently being undertaken by the Scottish Government for the updated Sectoral Marine Plan for Offshore Wind Energy (SMP-OWE). Strategic planning should provide an opportunity to streamline rather than duplicate efforts.

Scottish Renewables is the voice of Scotland's renewable energy industry. Our vision is for Scotland to lead the world in renewable energy. We work to grow Scotland's renewable energy sector and sustain its position at the forefront of the global clean energy industry. We represent over 375 organisations that deliver investment, jobs, social benefit and reduce the carbon emissions which cause climate change.

Our members work across all renewable technologies, in Scotland, the UK, Europe and worldwide, ranging from energy suppliers, operators and manufacturers to small developers, installers, and community groups, as well as companies throughout the supply chain. In representing them, we aim to lead and inform the debate on how the growth of renewable energy can provide solutions to help sustainability heat and power Scotland's homes and businesses.

It is understood that the concerns and matters raised by our members above will be fully considered. Scottish Renewables would be keen to engage further with this agenda and would be happy to discuss our response in more detail.

Yours sincerely,

Mark Richardson
Head of Offshore Wind
mrichardson@scottishrenewables.com
Scottish Renewables

Department
for Environment,
Food & Rural Affairs

Consultation for the establishment of the Marine Recovery Fund (MRF).

April 2025

We are the Department for Environment, Food and Rural Affairs. We are responsible for improving and protecting the environment, growing the green economy, sustaining thriving rural communities and supporting our world-class food, farming and fishing industries.

We work closely with our 33 agencies and arm's length bodies on our ambition to make our air purer, our water cleaner, our land greener and our food more sustainable. Our mission is to restore and enhance the environment for the next generation, and to leave the environment in a better state than we found it.

This publication is available at www.gov.uk/defra

Any enquiries regarding this publication should be sent to us at mrf@Defra.gov.uk

Contents

Acronym List

The following are common terms that are abbreviated in this paper.

ALB – Arm's Length Body

COWSC – Collaboration on Offshore Wind Strategic Compensation

DAERA – Department for Agriculture, Environment and Rural Affairs

DCO – Development Consent Order

Defra – Department for Environment, Food, & Rural Affairs

DESNZ – Department for Energy Security & Net Zero

DG – Devolved Government

EAR – Environmental Assessment Reform

eNGO – Environmental Non-Governmental Organisation

EoI – Expression of Interest

ExA – Examining Authority

FID – Final Investment Decision

GW – Gigawatt

HRA – Habitat Regulations Assessment

IMP – Implementation & Monitoring Plan

KPI – Key Performance Indicator

LoSCM – Library of Strategic Compensatory Measures

MCAA – Marine & Coastal Access Act 2009

MCZ – Marine Conservation Zone

MMO – Marine Management Organisation

MPA – Marine Protected Area

MRF – Marine Recovery Fund

MRFO – Marine Recovery Fund Operator

MW – Megawatt

NIE – Northern Ireland Executive

NM – Nautical Miles

NRW – Natural Resources Wales

NSIP – Nationally Significant Infrastructure Project

oANS – Offshore Artificial Nesting Structure

OWEIP – Offshore Wind Environmental Improvement Package

PINS – Planning Inspectorate

RIAA – Report to Inform Appropriate Assessment

SAC – Special Area of Conservation

SCM – Strategic Compensatory Measure

SG – Scottish Government

SNCB – Statutory Nature Conservation Body

SoS – Secretary of State

SPA – Special Protection Area

TCE – The Crown Estate

UKG – UK Government

WG – Welsh Government

Executive Summary

1. Making Britain a clean energy superpower is one of this government's five missions. This is critical to our country – to cut bills, create jobs, deliver energy security with cheaper, zero-carbon electricity by 2030 and to meet our net zero target.
2. Offshore wind will play a pivotal role in achieving Clean Power by 2030 and accelerating to net zero by 2050 – our recently published Clean Power Action Plan sets a capacity range of between 43 to 50GW by 2030.
3. The Offshore Wind Environmental Improvement Package (OWEIP) plays a crucial role in supporting the growth of offshore wind by helping to de-risk and accelerate planning decisions for offshore wind while protecting and enhancing the marine environment.

What is the Marine Recovery Fund (MRF)?

4. The Marine Recovery Fund is a core component of the OWEIP. Once operational, it will be a voluntary mechanism that organisations undertaking relevant offshore wind activities (such as developers or plan promoters) can pay into to secure appropriate and strategic compensatory measures (SCMs) to compensate for the adverse environmental impacts of their projects on protected sites.
5. The MRF aims to:
    a) speed up decision making within the planning and consenting process for relevant offshore wind activities, contributing to the delivery of the government's Clean Power 2030 mission; and
    b) deliver more effective and strategic measures to compensate for the adverse environmental impacts of offshore wind-related activities on protected sites.
6. The Energy Act 20231 gives the Defra Secretary of State (SoS) powers to establish one or more MRFs. This document consults on the MRF that will be established by the Defra Secretary of State for use by relevant offshore wind activity across England, Wales and Northern Ireland. We are working with Scottish Government on plans for operation of a Scottish Marine Recovery Fund, see further details in paragraphs 56-58.
7. References in this consultation to 'relevant offshore wind activity' include project developers and plan promoters, as defined in s.290 of the Energy Act 2023.

[1] Energy Act 2023

About this consultation

8. This consultation provides an opportunity for stakeholders to influence how the MRF will function. We will use the responses to this consultation to finalise the design of the MRF, including how the MRF will operate and be managed, and to inform the relevant secondary legislation.

9. The introduction of this document outlines the consultation process and asks demographic questions (Questions 1-12). Following this, there is a summary of the MRF policy to provide an overview of the proposed operating model. The next section presents consultation questions (Questions 13-47). It is divided into four 'Parts' with 2-3 thematic sections in each Part.

10. Part 1 outlines the proposed application process to the MRF, including entry criteria and the Expression of Interest forms. Part 1 also includes details on how the costs of SCMs and associated charges for the MRF will be calculated. This includes detail on reservation fees, deposits and the adaptive management charge.

11. Part 2 outlines how the MRF will deliver compensation and includes details on the transfer of responsibility for compensation and the methodology for adaptive management.

12. Part 3 addresses cross-cutting themes. It contains proposals on the possible interaction between the MRF and the Scottish MRF, and how projects with cross-boundary impacts will be able to access SCMs. It also outlines the role of SNCBs in the MRF process.

13. Finally, in part 4, there is an opportunity to provide any additional comments on the MRF policy overall.

14. In developing the MRF, Defra has engaged with:

    - the Department for Energy Security and Net Zero (DESNZ)
    - the Devolved Governments (DGs)
    - the Planning Inspectorate (PINS)
    - the Marine Management Organisation (MMO)
    - Natural England, Natural Resources Wales, and DAERA
    - the Joint Nature Conservation Committee (JNCC)
    - The Crown Estate (TCE) and the Crown Estate Scotland (CES)
    - Offshore Wind developers
    - Environmental Non-Governmental Organisations (eNGOs)

15. This consultation is not intended to seek views on:

    (i) The SCMs to be delivered by the MRF, which are developed using a co-design process described in the Introduction; nor

    (ii) The likely charge the MRF will make for each of those measures. That cost will be set by Defra (as the MRF Operator) once Implementation and Monitoring Plans (IMPs) are available for each measure.

16. Please note that this consultation also does not refer to the Nature Restoration Fund. The Planning and Infrastructure Bill will establish the Nature Restoration Fund. This will establish a more efficient and effective way for obligations related to our most important sites and species to be discharged at a scale that has the greatest environmental benefits. Unlike the Marine Recovery Fund, the Nature Restoration Fund will not be limited to a specific sector. For more information on the Nature Restoration Fund, please see the Factsheet: Nature Restoration Fund - GOV.UK.
17. We appreciate that there are developers with live applications seeking to use the Marine Recovery Fund. DESNZ has issued guidance on how developers should refer to the MRF in DCO applications, in advance of the MRF becoming operational. This is available on the gov.uk website.[2]
18. Final guidance on all aspects of this draft policy will be published in Autumn 2025 alongside the Statutory Instrument. The MRF guidance will be reviewed and updated periodically. Developers will be able to make applications to the MRF once it is live in Autumn 2025.

Consultation Process

Audience and application

19. We would like to hear from stakeholders who have an interest in offshore wind development and the delivery of SCMs in the UK.

Purpose of the consultation

20. We want to:
    - Test the design and proposed policy of the MRF with key stakeholders;
    - Gain evidence to strengthen the design and proposed policy of the MRF; and
    - Ensure the MRF meets its policy objectives.
21. We request responses to the questions below to enable us to do so.

[2] https://www.gov.uk/government/publications/strategic-compensation-measures-for-offshore-wind-activities-marine-recovery-fund-interim-guidance/strategic-compensation-measures-for-offshore-wind-activities-marine-recovery-fund-interim-guidance

Consultation timelines

22. The consultation will run from Monday 31 March 2025 to Monday 12 May 2025. At the end of the consultation period, we will publish a summary of responses and an outline of next steps on gov.uk.

How to respond?

23. Responses should be submitted online where possible via the survey. If you have additional information that you would like to submit as a part of your consultation response, please email this to mrf@defra.gov.uk. Responses can also be sent by post to the following address, please specify which questions you are responding to:

    Consultation for the Establishment of the MRF

    MRF Team, Defra

    2 Marsham Street

    London

    SW1P 4DF

24. Where you are asked to provide an explanation of your answer, please provide as much detail as you can, so that we can understand any comments or concerns.

Use of data

25. Information and comments submitted through the consultation will be used to inform and further develop the secondary legislation and guidance to ensure its feasibility for delivery and that it takes into account stakeholders' views.

Complaints procedure

26. All complaints about the consultation process should be submitted to the Consultation Coordinator via email: consultation.coordinator@defra.gov.uk. To meet with Defra's service standard, all complaints will be responded to within 15 days of receipt.

Using and sharing your information

27. How we use your personal data is set out in the consultation and call for evidence exercise privacy notice which can be found here: https://www.gov.uk/government/publications/defras-consultations-and-call-for-evidence-exercises-privacy-notice.

Other Information

28. This consultation is being conducted in line with the Cabinet Office “Consultation Principles” which can be found at: Microsoft Word - Consultation Principles (1).docx (publishing.service.gov.uk)’.

Questions 1-12: About you

Question 1. Would you like your response to be confidential?

No

Question 2. If you answered yes to this question, please give your reason.

n/a

Question 3. What is your name?

Mark Richardson

Question 4. What is your email address?

mrichardson@scottishrenewables.com

Question 5. Are you responding to this consultation on behalf of an individual?

No

Question 6. Which organisation or organisations are you responding on behalf of?

Scottish Renewables

Question 7. What is the position you hold at the organisation or organisations?

Head of Offshore Wind

Question 8. If employed, briefly describe the main business activity of your company or organisation. If you are self-employed, or looking for work, please indicate what type of work you do. If retired, please indicate the type of work you undertook in your career.

Trade Association

Question 9. If responding as an individual, where do you live? [Please tick one of the following bullets]

Scotland

Question 10. If responding on behalf of an organisation headquartered in the UK, where is your organisation based or where are you operating? [Please tick one of the following bullets]

Scotland / The Organisation operates throughout the UK

Question 11. If responding on behalf of a multinational organisation headquartered outside the UK, where are you operating? [Please tick one of the following bullets]

n/a

Question 12. Which of the following best describes where you live? [Please tick one of the following bullets]

- **Urban – coastal**
- **Urban – non-coastal**
- **Rural – coastal**
- **Rural – non-coastal**

Introduction

29. Making Britain a clean energy superpower is one of the government's five missions. The key aims of this mission include cutting energy bills, creating jobs and delivering energy security with cheaper zero-carbon electricity by 2030, accelerating to net zero. Central to delivering this mission is a radical expansion in offshore wind. This ambition for offshore wind is an important component in delivering the government's manifesto commitment to increase the proportion of the UK's energy generated from renewables, to decarbonise the UK's electricity system.

30. In addition to the clean energy mission and offshore wind ambition, the government has a commitment to boost nature's recovery. This commitment will be achieved through taking action to meet the UK's Environment Act targets, as well as the commitment to designate 30% of UK land and sea 'for nature' by 2030, also known as the 30x30 commitment.[3]

31. Offshore wind will play a key role in delivering the clean power mission, but these developments can have adverse impacts on protected habitats and species throughout the project lifecycle. The challenges associated with managing the tension between the government's ambitions for offshore wind and the need to appropriately compensate for these adverse environmental impacts has created a barrier to the consent of offshore wind projects. The government is therefore implementing the Offshore Wind Environmental Improvement Package (OWEIP) to help deliver a significant expansion in offshore wind capacity, whilst continuing to protect the marine environment.

The Offshore Wind Environmental Improvement Package (OWEIP)

32. The OWEIP will:
    a. Reform **environmental assessments** for offshore wind developments (Habitats Regulations Assessments and Marine Conservation Zone Assessments);
    b. Enable **strategic compensatory measures** to allow unavoidable marine environmental impacts to be compensated for at a strategic level across multiple offshore wind projects or plans;
    c. Establish industry-funded **Marine Recovery Funds** into which applicants can pay to discharge their compensation obligations, underpinned by libraries of approved SCMs.

[3] Government sets out commitments to biodiversity and sustainability in G7 Nature Compact - GOV.UK

d. Deliver **Offshore Wind Environmental Standards** (OWES) to set a minimum common requirement for designing wind farms so that developers don't need to negotiate these individually; and
e. Develop a strategic approach to **environmental monitoring** for offshore wind.

33. This consultation focuses on the design of a UK Marine Recovery Fund (MRF), for projects consented in England and Wales. Northern Irish projects may also be eligible if agreed by Northern Irish Ministers (see paragraphs 52-55). The MRF will contribute towards environmental commitments and targets of the Devolved Governments where relevant.

Background to the consenting of offshore wind developments

34. The UK has commitments to protect the marine environment including through a network of Marine Protected Areas (MPAs). The UK's MPA network is formed of:
    a. Marine Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)[4];
    b. Marine Conservation Zones (MCZs)[5] in English and Welsh waters and the Scottish offshore region (where they are called MPAs);
    c. Marine Protected Areas designated under Scottish and Northern Irish legislation in the Scottish and Northern Irish inshore regions; and
    d. The relevant parts of Ramsar sites and of Sites of Special Scientific Interest (SSSIs).
35. The purpose of designating MPAs is to restore, preserve, and maintain biodiversity by protecting key habitats and species. All sites contribute to the network of MPAs and therefore to overall network integrity.
36. Offshore wind developments can be approved within MPAs (where there are no alternative solutions and there is an overriding public interest in doing so), provided appropriate environmental compensation is secured (under the Habitats Regulations) and Measures of Equivalent Environmental Benefits (MEEBs) (under the Marine Coastal Access Act (MCAA)). In practice, compensation is usually delivered by the developer. The Secretary of State for the Department of Energy Security and Net Zero (DESNZ SoS) is the decision maker for compensation related to offshore wind projects requiring a Development Consent Order (DCO) in England and Wales (for example, for Welsh projects above 350MW). This role falls to Welsh Ministers for projects within

[4] SACs and SPAs are designated under the Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Habitats and Species Regulations 2017 (together, "the Habitats Regulations")

[5] MCZs are designated under the Marine and Coastal Access Act 2009 ("MCAA")

their jurisdiction; and to Northern Ireland Ministers in Northern Irish waters (within 12NM). The roles of other relevant bodies, including the Statutory Nature Conservation Bodies, the MMO, Natural Resources Wales (NRW) and DAERA are described in Section 3.

37. Unless otherwise stated:
    a. references to compensatory measures in this consultation are to measures required under the Habitats Regulations, MCAA, and Marine Act (Northern Ireland) 2013.
    b. references to 'Habitats Regulations' throughout this consultation are to include the Conservation of Habitats and Species Regulations 2017 (as amended), the Conservation of Offshore Marine Habitats and Species Regulations 2017 and, in cases concerning Northern Ireland, The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

The case for Strategic Compensation

38. Identifying and securing appropriate compensation in the marine environment is a challenge. Offshore wind projects have been delayed both during and after the planning and consenting process due to challenges identifying, securing, and delivering adequate compensation, particularly on a project-by-project basis.

39. To address the challenge of securing adequate compensation, the Energy Act 2023 supports the use of SCMs. These are compensatory measures delivered collaboratively where possible, and/or at scale to compensate for the adverse effects of multiple projects on the integrity of protected sites. The dynamic nature of marine ecosystems means that larger-scale measures are more likely to deliver the environmental benefit needed to adequately compensate for damage. Currently, commercial and project management information sensitivities have prevented developers from delivering compensatory measures in collaboration with other developers. There are also some compensatory measures that can only be delivered by government as they are reliant on government actions – one example is the recent decision to expand the MPA network to compensate for unavoidable benthic impacts.[6]

Library of Strategic Compensatory Measures (LoSCM)

40. The MRF will deliver compensatory measures deemed suitable by the Defra Secretary of State (or, where relevant, Ministers in the Devolved Governments). These measures will be drawn from the Library of Strategic Compensatory Measures

[6] Written statements - Written questions, answers and statements - UK Parliament

(LoSCM). The LoSCM is published at https://www.gov.uk/guidance/offshore-wind-development-library-of-strategic-compensatory-measures.

41. By using measures from the LoSCM, the MRF will provide offshore wind developers with access to the most effective and strategic options for compensation, including measures they cannot deliver themselves, and the opportunity to discharge their responsibilities for delivering compensation by payment into the MRF.

42. SCMs will only be added to the LoSCM once they have been approved by the Defra SoS (or, where relevant, Ministers in the Devolved Governments). In approving SCMs, Ministers will consider advice from the Collaboration on Offshore Wind Strategic Compensation (COWSC) Programme, alongside independent advice from Statutory Nature Conservation Bodies (SNCBs).

43. COWSC is a collaborative governance group which brings together government representatives, SNCBs, environmental NGOs, representatives from the offshore wind industry, and Devolved Governments to work together in partnership. When assessing potential SCMs, COWSC will consider whether they are ecologically effective; feasible and/or deliverable; and strategic (meaning they can compensate for the impacts of multiple projects).

44. The damage to features, habitats and species that a measure can effectively compensate for will be specified when a measure is added to the LoSCM. Some SCMs may only be suitable for use in certain areas, this will also be defined when it is added to the LoSCM. The MRF's use of the LoSCM will therefore ensure the ecological feasibility and suitability of SCMs. This is intended to avoid future delays in agreeing and securing appropriate measures.

45. The capacity of SCMs to deliver sufficient compensation for applicants' projects will vary between measures. To ensure an SCM remains ecologically feasible, its capacity may need to be limited. If a compensatory measure no longer has capacity to provide further compensation to new applicants, or the status of the deliverability of the measure changes, it will be removed from the LoSCM and reintroduced if further capacity becomes available.

46. If the LoSCM does not contain an SCM that suits the applicant's requirements, the applicant will not be able to use the MRF. The LoSCM currently contains three SCMs (for further detail see paragraph 156), however this will expand as COWSC continues their work to identify and propose further compensatory measures.

47. Although COWSC is the current mechanism for recommending SCMs to the Defra SoS, this may evolve in the future. It is our intention to continue to develop SCMs in a collaborative way, with expert advice from SNCBs and others. While it is ultimately the responsibility of Defra to decide upon and own the measures delivered by the library, we recognise the value of stakeholder involvement in developing measures.

Establishing the Marine Recovery Fund

48. Alongside other measures in the OWEIP, the MRF will help accelerate decision-making within the planning and consenting process, while protecting the marine environment, by:
    - Delivering the required compensation for multiple projects simultaneously so that developers will no longer need to deliver these independently;
    - Utilising pre-approved measures from the LoSCM, speeding up decision-making within the planning and consenting process by removing protracted discussions about the suitability of compensatory measures;
    - Targeting compensation in the most effective locations, resulting in more benefits to the MPA network; and
    - Providing compensation for adverse environmental effects that can only be compensated for with measures delivered by government, such as the designation of new MPAs and/or the extension of existing MPAs as compensation for damage to benthic features.[7] The MRF will allow access to government-delivered measures, unlocking multiple offshore wind projects that are at risk due to a lack of ecologically effective options that developers can deliver themselves.
49. Defra will establish the MRF and act as the MRF operator (MRFO). Defra (as MRFO) will retain ultimate responsibility for the MRF, while being able to delegate or sub-contract certain responsibilities to other parties. Officials within Defra (as MRFO) will be operating the day-to-day functions of the MRF, on behalf of the Defra SoS and Devolved Ministers. During operation, the MRF will be subject to an evaluation to determine its future scope. This will provide greater flexibility to adapt and evolve the MRF.
50. Defra (as MRFO) will provide or procure SCMs from the LoSCM. If an SCM is appropriate to compensate for a project's unavoidable impacts, the developer can apply to the MRF to purchase the appropriate quantity of compensation.
51. The government will provide seed funding, subject to the outcome of the Spending Review, to enable the MRF to begin to operate and deliver measures. Defra, as MRFO, will recover the cost of this seed funding through payments from applicants so that, in the long term, the MRF will be cost neutral to government.

Territorial scope of the MRF

52. All relevant offshore wind activities, as defined in the Energy Act 2023, in English and Welsh waters may use the MRF, with Northern Irish projects also eligible once

[7] The designation of new MPAs and/or extension of existing MPAs is currently only approved for use in English waters.

agreement has been provided by Northern Irish Ministers. We have included the proposed approach for Northern Irish projects in this consultation for transparency. Scottish projects with cross-boundary adverse effects on the integrity of protected sites in English, Welsh, or Northern Irish waters may also use the MRF in certain circumstances (see Part 3, Section 1).

53. Welsh and Northern Irish Ministers are the Appropriate Authority for projects consented in their waters (for Wales, these are projects <350MW). They will be asked to approve SCMs in the LoSCM for use in their jurisdictions with regard to their consenting responsibilities. Existing consent processes for projects, including DCO processes in Welsh waters and Marine Licensing in Northern Ireland's waters, will not change. UK government can approve certain SCMs in Welsh waters in relation to compensation for NSIPs.

54. Once an SCM is approved by a Devolved Government Minister, it will be available for use by projects under their jurisdiction through the MRF subject to any conditions on its use in those waters. If it is not approved in a jurisdiction, it will be added with a location stipulation precluding its use in these waters.

55. The Welsh Government and Northern Irish Executive will be able to propose new SCMs to be added to the LoSCM through their membership of COWSC. Measures proposed will be considered for use across English, Welsh, and Northern Irish waters.

The Scottish MRF

56. Recognising the separate planning and consenting process in Scotland, we are working with Scottish Government on plans for the operation of a Scottish Marine Recovery Fund using powers provided in the Energy Act 2023 for delegation of operation of a Scottish fund. While formal establishment of the Scottish MRF is subject to formal agreement from both UK and Scottish Ministers, the design of both funds is being guided by a set of shared principles, these are:

    - The funds will deliver a more streamlined process for securing compensation for the adverse effects of offshore wind development and do so in a way that enables strategic environmental benefits to be delivered.
    - The funds will be tailored to each nation's unique constitutional, legal and sectoral needs, maximising their effectiveness and value.
    - The funds will work in close partnership, with opportunities to broadly align approaches being sought wherever possible and practicable.

57. For further information on the interaction between the MRF and the Scottish MRF, see Part 3, Section 1: Cross-Boundary Adverse Effects.

58. For clarity, this consultation refers specifically to the detail of the MRF for England, Wales and Northern Ireland. Unless otherwise stated, all references to an MRF, or the Library of Strategic Compensatory Measures (LoSCM) are for this fund. Scottish Government will publish a separate consultation on the policy and operation of the Scottish MRF.

MRF Operational Process

59. This section provides a detailed overview of how the MRF will operate (see annex A for a visual representation of the process). Some of this detail is repeated in Parts 1-3 where we are asking consultation questions. However, it is presented here in full to give an overview of the whole process upfront.

Applying to the MRF

60. At the pre-application stage of the planning and consenting process, developers will engage with SNCBs for advice on the expected adverse impact(s) of their project to produce the relevant environmental assessment documentation. These environmental assessments highlight the type and magnitude of impact of their proposed offshore wind developments and the amount of compensation they may require. SNCBs will also be able to discuss with developers whether the SCMs available from the LoSCM are appropriate to provide that compensation. (Details of the SCMs available to purchase from the MRF will be published).

61. If developers decide they would like to purchase compensation through the MRF, they will complete and submit Part A of an expression of interest (EoI) form to the MRFO (see annex B for an example of EoI form Part A). In the EoI, the developer will specify the amount and type of compensation they wish to purchase and provide evidence that they have agreement from SNCBs on the appropriateness of their proposed compensation, without prejudice to the consenting authority's decision. The MRF applicant will also state a timeframe in which they expect to submit their application for a consent which the applicant will be expected to adhere to, to prevent the indefinite reservation of an SCM. If the LoSCM does not contain a SCM that suits the developer's requirements, they cannot use the MRF until a suitable SCM is added to the LoSCM. In this instance, the developer would be expected to source their own compensation independently, although they could retain the right to use the MRF at a later date if a suitable SCM were to be added.

62. Upon receiving the EoI Part A, Defra (as MRFO) will consider the application – there will be a non-statutory target for Defra (as MRFO) to review and respond to the submission of an EoI form within 60 days. If the evidence and advice provided indicates that the SCM applied for is suitable, Defra (as MRFO) will accept the EoI and an agreement in principle can be reached.

63. At this point, the MRFO will request that the applicant pay a non-refundable reservation fee proportionate to the estimated value of the required compensation and enter into a contract with Defra (as MRFO). This fee is intended to deter speculative reservations and will be deducted from the total cost of the SCM. The applicant will be expected to pay this reservation fee within 30-days to reserve the quoted compensation. Once complete, the MRFO will provide the applicant with a letter of acceptance, and an MRF IMP for the SCM to accompany their application for a DCO. This MRF IMP will be based on those produced for each SCM in the library but will be

specific to each SCM project the applicant has been allocated and contain details of the amount of compensation reserved.[8]

64. The applicant can then refer to this compensation in their application for development consent. This will demonstrate that SCMs can be secured for the project. DESNZ SoS, or the relevant Devolved Ministers, will still be responsible for making sure that adequate compensation is agreed and secured before consenting to an individual project.

Post-Applying to the MRF

65. The examination process will commence with the Examining Authority (ExA) reviewing the material submitted in the DCO application. Defra (as MRFO) will supply the applicant with the necessary documentation regarding their use of the MRF for them to submit as part of their consent application. During the review, SNCBs will advise on the scale of impact and quantity of compensation required. If changes to the applicant's compensation requirements are needed, the applicant can request (from Defra, as MRFO) a variation to the MRF contract for the additional amount. Alternatively, the applicant can address the shortfall by securing and delivering any outstanding compensation themselves, as per current industry practice.

66. The ExA will then provide DESNZ with a Recommendation Report. The MRF does not change this part of the standard DCO process or the subsequent decision phase. The Report will advise, as it does now, whether the compensation outlined by the applicant, and provided by the MRF, is sufficient. If DESNZ SoS considers that the amount of required compensation is greater than that reserved through the MRF, and the applicant has not renegotiated with the MRFO to increase the amount of compensation that was agreed during the pre-application stage, then DESNZ SoS may require the applicant to provide additional compensation. The applicant can choose to do this by renegotiating with the MRFO or by providing for the shortfall themselves.

67. If a developer or plan promoter is informed by an SNCB that they may require compensatory measures, they will be able to apply to the MRF in anticipation of confirmation of the requirement. They would need to pay the non-refundable reservation fee to reserve a compensatory measure. If it is found during the examination stage or at the DESNZ decision making stage that the developer does need this compensation, it will already be reserved. Conversely, if it is found that this compensation is not required, then the developer would not need to proceed with the

[8] This consultation references two types of IMPs: MRF IMPs and SCM Delivering Body IMPs, for more information on the different IMPs, see paragraph 159.

application to the MRF. The developer would forfeit the reservation fee already paid but not be subject to any further charge.

68. Once the level of compensation to be delivered by Defra (as MRFO) is contractually agreed by the MRF applicant, the DESNZ SoS would make their development consent decision.[9]

Following a consent decision

69. If consent is granted, the applicant is required to submit Part B of the EoI form to the MRFO, confirming the extent and type of compensation required as per the DCO. Developers will have 60 days from the date of receiving their DCO to submit Part B of the EoI form (see annex C for a draft of EoI form Part B).

70. Upon receiving Part B of the EoI form, the MRFO will review and confirm an exact allocation of an SCM (type and amount) to the project. There will be a non-statutory target for the MRFO to review and respond to the submission of an EoI form within 60 days. The MRFO response to the developer will seek agreement of the final terms and include a full breakdown of the estimated costs (see Part 1, Section 2, on costs and charges) for the developer to use the MRF to deliver their compensation requirements. The MRFO and applicant will also agree a reasonable time-period to pay the outstanding balance, recognising the need for a Final Investment Decision (FID) to proceed with the project. The deposit fee is then required to be paid by the developer to the MRFO within 30 days. As with the reservation fee, this will be attached to the specific project and proportionate to the amount and type of compensation required.

71. Following this, payment towards the full balance will be required before works relating to the adverse effect(s) can commence. This will usually be payment of the full balance but may be the first payment of a contractual agreement between the MRF and developer to make scheduled payments, until the full balance is paid. In the case of scheduled payments, the contractual arrangements will stipulate obligations imposed on the developer for the fulfilment of payment conditions. Both the reservation fee and deposit payments will be treated as advanced payments towards the final full charge to applicants and will be deducted from the final payment.

72. The applicant's DCO requirements pertaining to the reserved measure will be satisfied once DESNZ has received proof of the agreement of payment with the MRFO and evidence that the full payment, or the first of a series of instalments, has been made to the MRF. At this point, the MRFO will take on responsibility for the delivery of the agreed compensation as set out in the MRF IMP, including responsibility for

[9] Using the MRF does not guarantee that consent will be granted, it remains the responsibility of the DESNZ SoS to agree that adequate compensation has been secured, and to provide consent.

monitoring and adaptive management. In instances with annualised or repeat-scheduled payment plans (see paragraph 146), the contractual agreement between the MRF and the developer will stipulate obligations imposed on the developer for the fulfilment of payment conditions.

If consent is not granted

73. If DESNZ SoS does not grant consent and the developer wishes to resubmit a new DCO application for consent, then their application to the MRF will remain live and their allocated compensation will continue to be reserved. If the developer does not proceed within the time-period agreed by the MRFO, then their reservation fee will be forfeited.

Following full payment

74. SCMs will be delivered either directly by Defra (for example, MPA designation) or through third parties. The MRFO may also purchase compensation already delivered by third parties where this meets a need for compensation and is of a type approved for the LoSCM.

75. Once an SCM is in place, its performance and efficacy will be monitored in line with the relevant IMPs. The MRFO will appoint an appropriate organisation to carry out this monitoring and report on the SCM's performance. This reporting, as well as advice from SNCBs, will inform the decision on whether adaptive management is required. Monitoring reports will also be provided to DESNZ SoS, and Defra (as MRFO) will inform DESNZ if adaptive management has been triggered. The cycle of monitoring, reporting and implementation of any adaptive management will be continuous over the lifetime of the SCM to ensure that the compensation conditions are satisfied. More information on the proposed approach to monitoring and adaptive management can be found in Part 2, Section 2.

Process for applicants with a DCO

76. If an applicant already has development consent prior to the MRF being established but seeks to secure benthic compensation via the MRF it may do so in an accelerated process.

77. Prior to the MRF becoming operational, Defra (as MRFO) will provide a high-level MRF IMP for the designation and/or extension of MPAs as benthic compensation. From this, applicants will be able to decide if this compensation will meet their requirements. Prospective applicants should consult with SNCBs and DESNZ in making this decision and determining the amount of compensation they require.

78. When the MRF is operational, applicants may apply immediately to use MPAs as benthic compensation by completing parts A & B of the EoI forms. Applicants should

also indicate if they wish to proceed immediately to full payment or, at this stage, just wish to reserve compensation. As part of the application, applicants will be expected to demonstrate that they have SNCB agreement on the appropriateness of their proposed compensation.

79. Defra (as MRFO) will review the application and aim to respond within 60 days. If satisfied with the application, Defra will provide a detailed IMP, prepare a contract and propose a payment schedule for agreement. Those applicants wishing to reserve compensation at this stage will be asked to pay a deposit. Those applicants wishing to secure compensation immediately will be asked to pay the first scheduled payment. Applicants commencing full payments will then be able to provide evidence of this to DESNZ to demonstrate the provision of compensation.

80. If an applicant already has development consent and wishes to secure predator reduction or offshore ANS as compensation via the MRF, the applicant may apply as above but will not be able to proceed to full payment until Defra (as MRFO) has determined the full cost of this compensation and prepared detailed IMPs

Part 1 – Policies and Consultation Questions on the MRF application process

Section 1: MRF Application Process (Entry Criteria and Expression of Interest forms)

81. This section outlines the proposed MRF application process, entry criteria and Expression of Interest (EoI) forms that will be needed to access the MRF. Please refer to the MRF Operational Process section above and annex A which contains a flowchart illustrating the MRF application process in further detail. Please see annexes B and C for draft EoI forms.

Expression of Interest Process

82. Developers seeking to use the MRF will apply by submitting an EoI form. This form will ask for details of the offshore wind project and the SCM they would like to use.

83. The EoI process has two parts, A and B, to align with the planning and consenting process. EoI Part A will (typically) take place before consent is granted. This will allow the applicant to reference their agreement with the MRF in their consent application. Projects that already have consent should follow the process outlined in paragraphs 76-80.

84. To reserve an SCM, applicants will be encouraged to inform Defra (as MRFO) when they are ready to make an MRF application. Applicants will then have to formally submit the EoI Part A and, subject to Defra's (as MRFO) review, pay a non-refundable reservation fee.

85. After the applicant has paid the reservation fee they will:

    - have entered into a contract with Defra (as MRFO),
    - have reserved the required SCM, and
    - be able to refer to their above agreement with the MRFO in their Development Consent (DCO) Application (or alternative consenting route where relevant) to demonstrate that the proposed compensation can be delivered by the MRF.

86. If the project receives consent, applicants will submit EoI Part B and confirm the amount and type of compensation they require from the MRF, pay a deposit fee, and agree the timelines to complete payment to the MRF.

87. Once the final payment has been made, and subject to any further conditions in the DCO, Defra (as MRFO) will be responsible for delivering the compensation, including maintenance, monitoring and, if necessary, decommissioning.

Entry Criteria and Application Process

88. MRF applicants (developers or plan promoters) will follow this application process. The process will vary slightly depending on what stage of the planning and consenting process an applicant is at when they decide to use the MRF.

89. The MRF will operate on a ‘first come, first served’ basis, meaning that applications will be processed according to the submission date of their EoI Part A (further detail outlined below). The EoI process will require applicants to express which SCM from the published LoSCM they are interested in using and to demonstrate their eligibility for that SCM.

90. Applicants must provide sufficient evidence to Defra (as MRFO) to justify securing the requested SCMs. This is necessary to ensure that the selected compensation will be appropriate for the relevant plans or projects. These details will be requested in EoI Part A.

91. EoI Part A will require the following information:

    I. Declaration of an agreed and appropriate seabed lease or agreement for lease from The Crown Estate.
    II. Location and design of the offshore wind plan or project proposal, including name and generating capacity (MW and appropriate grid referencing).
    III. If the development is part of Leasing Round 5 (or later), confirmation from the applicant that they intend to adhere to the OWES, if applicable.
    IV. A summary (without prejudice) of adverse effects on the integrity of protected sites likely to be caused by the proposed project or plan throughout its development, operation and/or decommissioning that applicants are seeking to compensate for via the MRF.
    V. The proposed SCM and the amount required from the published LoSCM.
    VI. Documented advice (without prejudice) from the relevant SNCB demonstrating that the nature and proportion of adverse effect to the affected site(s) can be compensated for with the requested SCM(s).
    VII. A documented opinion (without prejudice) from the relevant SNCB that the applicant has appropriately sought to avoid, reduce, and adequately mitigate for adverse impacts prior to seeking SCMs as a last resort.
    VIII. Timescales for plan or project implementation, including projections of when adverse effects on the integrity of protected sites will take place and/or be most significant.

92. The applicant must inform the MRFO of any material changes to these details during or after the MRF application process.

93. Any SNCB advice required to progress an application to use the MRF will need to be obtained (and paid for, where relevant) directly by the applicant using the existing Discretionary Advice Service (DAS) provided by the relevant SNCB.

94. The MRF application process will be subject to updates as future reviews of the MRF occur, including as additional SCMs are added to the LoSCM.

95. See annexes B and C for samples of the draft EoI forms.

Question 13: Do you agree with the proposal to have applicants seek non-statutory or discretionary advice from the relevant SNCB(s) on the suitability of their plan or project to use the MRF and the measures available in the LoSCM?

[**Yes**/~~No/I don't know~~]

We agree with the proposal to encourage applicants to seek non-statutory or discretionary advice from the relevant Statutory Nature Conservation Bodies (SNCBs) regarding the suitability of their plan or project to use the Marine Recovery Fund (MRF) and the Library of Strategic Compensation Measures (LoSCM). Early engagement of this kind offers a valuable opportunity to improve project design and planning, ensure alignment with compensation expectations, and support a smoother consenting process.

To be effective, this engagement process must be clearly defined, consistently applied across jurisdictions, and supported by adequate resourcing within SNCBs to enable timely and constructive input. SNCBs should avoid providing early, overly precautionary and indicative conclusions of an Adverse Effect on Integrity which seek only to reserve their position pending full review of the evidence. This will help to avoid the situation in which developers reserve compensation through the MRF which turns out not to be required once the detailed evidence is considered. This would ensure that the process balances flexibility with necessary oversight, while avoiding unnecessary delays.

We also support the principle of establishing a formal pre-application or early-stage engagement process with the MRFO to explore likely compensation requirements and enable provisional reservation of strategic measures. However, we have concerns about the range of pre-requisites outlined in the EOI Part A process (as set out in Paragraphs 91 I–VIII of the consultation). These requirements appear overly complex and risk duplicating or pre-empting well-established consenting and derogation processes, such as assessments of alternatives and application of mitigation under the Habitats Regulations.

Further, we are concerned that the proposed process may inadvertently grant SNCBs an effective veto over a project's access to the MRF. This would be particularly problematic for projects reliant on the MRF for essential compensation, such as for benthic impacts. While we fully support early and constructive engagement with SNCBs, as is current practice, it is important that the process does not delegate decision-making authority to SNCBs that should properly remain with the competent authority. Clear guardrails are needed to maintain appropriate governance and ensure the MRF access process remains enabling, not restrictive.

Question 14: Do you agree that the requirement for a declaration of an agreed and appropriate lease/agreement for lease from The Crown Estate will encourage eligible applications and deter speculative applications?

[**Yes**/~~No/I don't know~~]

Compensation measures should be allocated only to offshore wind projects that have secured both a seabed agreement and a grid connection agreement. This will help deter speculative applications and ensure that resources are directed toward projects with a credible pathway to delivery. Prioritising projects with a clear route to construction will help avoid misallocation of compensation measures to developments that are unlikely to proceed.

Question 15: Do you agree that the requirement for evidence of SNCB advice that corroborates (without prejudice) that the applicant has appropriately sought to avoid, reduce, and adequately mitigate for adverse impacts prior to seeking SCMs as a last resort (for example, Discretionary Advice Service correspondence) will encourage eligible applications and deter speculative applications?

[~~Yes~~**/No/**~~I don't know~~]

It is important that disagreements between a developer and a SNCB as to the appropriateness and availability of a particular mitigation does not preclude a developer's access to the MRF. For example, a SNCB may propose a higher minimum turbine blade clearance as mitigation for ornithological impacts, which a developer does not consider it is able to commit to for supply chain reasons. The existence of this disagreement should not preclude that developer's ability to access the MRF, particularly in instances where committing to that additional mitigation would not alter the SNCB's advice on whether there is an AEoI for a particular feature of a particular site.

We have concerns with reliance upon SNCB advice and corroboration, in particular, as there have been numerous cases of significant differences in the predicted impact determined by SNCBs versus the impacts determined by the competent authority. Overly cautious advice from SNCBs could lead to developers over-reserving SCMs and reaching capacity quickly, reducing the availability of compensation for other projects.

If there is a requirement for evidence of the SNCB's advice and agreement then there should be statutory timeframes in relation to the provision of a response from the SNCB on receipt of the required information to support the advice provided. This step will be intrinsically linked with the submission of applications, so there should be clearly defined timeframes so that Developers can plan accordingly.

Question 16: Do you agree that the requirement for evidence of SNCB advice that confirms (without prejudice) the suitability of the requested SCM and its quantity for the (expected) adverse impact for which the applicant is seeking compensation (for example, Discretionary Advice Service correspondence) will encourage eligible applications and deter speculative applications?

[Yes**/No/**~~I don't know~~]

It's important that this requirement does not become a barrier to deployment. SNCBs are already tasked with engaging during the pre-app stage and then reviewing impact assessments and compensation proposals to determine their suitability and adequacy. We stress that it is important that the MRF does not duplicate or complicate existing impact assessment and consenting processes which are separate to the MRF. Timely, clear and accessible SNCB input will be key to making the process efficient and fair.

We agree that engagement with SNCB on the suitability and scale of the proposed SCM will help ensure applications are well-founded. This step adds credibility, encourages early engagement, and reduces speculative or poorly aligned proposals. However, our members are concerned that reaching agreement should not be mandated, particularly with regards to scale of compensation where this may result in upper SNCB values resulting in widespread over-allocation of SCM capacity that then acts as a blocker for further deployment.

As per our response above, if the proposal to mandate engagement and SNCB agreement then statutory timeframes should be established for this step.

Expression of Interest – Part A

96. MRF applicants will submit the completed EoI Part A (annex B). Defra (as MRFO) will provide receipt via email that the application has been received.

97. There will be a non-statutory target for Defra (as MRFO) to review and respond to the submission of an EoI form within 60 days.

98. MRF applicants wishing to secure more than one SCM will have to submit one EoI per SCM that they are requesting to reserve.

99. Defra (as MRFO) will send a formal offer to the MRF applicant, and the applicant will have 30 days to pay a proportionate reservation fee. (For further information on costs see Part 1, Section 2).

100. The amount of compensation offered by the MRFO will be based on SNCBs' upper estimate for compensation needed to address the impact of the project. SNCBs currently provide this information to consent applicants for use in the drafting of the Report to Inform Appropriate Assessment (RIAA) and/or other environmental assessments.

Question 17: Do you agree with the proposal for applicants to provide Defra (as MRFO) with an estimated timeframe in which applicants will aim to submit an application for development consent?

[**Yes**~~/No/I don't know~~]

We agree with the need to provide an estimated timeframe of an applicant's foreseen development consent submission, as Defra should be given as much information as possible at the time of application in order for informed decisions to be made. Providing Defra with an estimated timeframe for submitting a development consent application will support better planning and resource allocation within the MRFO. It also helps align the delivery of compensatory measures with project timelines.

We recommend that the requirements remain flexible, acknowledging that timelines may shift due to factors outside the applicant's control.

The applicant should also be requested to provide a timeframe for the foreseen construction and operation of their projects so Defra can take a holistic view on prioritisation of award of compensation measures to projects with earlier delivery to avoid bottlenecking the pipeline delivery with longer lead time measures being considered for later delivery projects. Short-term and/or currently available compensation measures should be the focus of the shorter-term project delivery timelines.

Question 18: Do you agree with the proposal to charge a reservation fee at the point of initial reservation of an SCM, prior to receiving consent? (Further information on costs in Part 1, Section 2)

[**Yes**/~~No/I don't know~~]

We agree with the proposed initial reservation fee in principle, as it will help deter speculative applications while supporting fund planning to ensure the MRF is operational and effective as soon as possible. However, the fee structure should be proportionate, transparent, and refundable or adjustable if project timelines change or consent is not granted or if compensation measures are subsequently advised by SNCBs or determined by the competent authority not to be required, to avoid penalising genuine applicants facing unforeseen delays.

Any reservation fee must not be set at a level which would dissuade legitimate applicants from applying to the MRF in the first place. Due to offshore wind's high upfront costs, particularly in comparison to onshore wind due to the scale, expertise required, and a less developed sector, there is likely to be far fewer applications that are not progressed or likely to be withdrawn. Therefore, while we acknowledge that ensuring SCMs are reserved for viable projects, we want to dissuade overly precautious decisions on this issue.

Our members would favour the process allowing for partial refunds of reservation fees (minus admin costs) where the requirement for compensation falls away during consent determination.

Expression of Interest – Part B

101. When the EoI Part A process is complete, the applicant will be provided with confirmation of the reserved compensation measure from Defra (as MRFO) and will continue with the standard consent application process to gain consent from the relevant consenting authority. At this point, applicants can consider their compensation secured, provided that consent is granted and the terms on which the reservation is made are not materially changed.

102. If different compensation requirements to those reserved by the applicant are identified during Examination and/or decision stages, the applicant will have the opportunity to return to Defra (as MRFO) to renegotiate the reserved compensationprior to any consent. If agreed, Defra (as MRFO) will then provide confirmation of the updated reserved compensation measure for the consent decision stage.

103. The applicant will be responsible for providing the consenting authority with Defra's (as MRFO) confirmation.

104. Once the consenting authority has consented to the project, the applicant will submit EoI Part B (annex C) to Defra (as MRFO) to formally confirm the type and quantity of compensation required.

105. Developers will have 60 days from the date of receiving their consent to submit EoI Part B.

Question 19: Do you agree with the proposal for the applicant to submit EoI Part B to Defra (as MRFO) within 60 days of receiving consent?

[~~Yes~~**/No**~~/I don't know~~]

However, we are concerned that the proposed 60-day submission window may not adequately account for some of the statutory periods during which a consent decision may be appealed by the developer or subject to a judicial review (JR) request by a third party, which extend beyond the 6-week timescales applicable to challenging a DCO. Proceeding with EoI Part B during this challenge window may create uncertainty and unnecessary risk for developers.

To address this, we suggest either extending the submission period beyond all appeal and JR timelines or introducing a mechanism to allow for deferred submission of EoI Part B in cases where a consent decision is subject to legal challenge. This would ensure developers can proceed with confidence and reduce the risk of unnecessary administrative burden or rework. Consideration should also be given to how these timelines apply to non-DCO proposals, which may follow different challenge periods. A more flexible approach would better reflect the practical realities of the consenting landscape across project types.

To ensure consistency and avoid unnecessary delays, we recommend that Defra's own 60-day turnaround time for processing EoI Part B submissions should also be made statutory.

106. In the EoI Part B, the applicant will provide Defra (as MRFO) with the date by which they intend to reach a FID and make full payment into the MRF. This timescale will be used to understand how a project or plan is progressing and to prevent SCMs being reserved indefinitely. However, Defra (as MRFO) will allow a certain degree of flexibility to account for reasonable changes in circumstances.

Question 20: Do you agree with the proposal for applicants to provide Defra (as MRFO) with an estimated date by which they will aim to reach FID and make full payment into the MRF?

[**Yes**~~/No/I don't know~~]

Following project consent, applicants are required to submit an Expression of Interest Part B, including an indicative date for reaching Final Investment Decision (FID) and making full payment into the MRF which can aid in the strategic allocation of resources and smoother project delivery. We support the rationale behind this requirement, as it prevents indefinite reservations and enables more effective forward planning. We agree that Defra should be provided as much information as possible at the time of application to support informed decision-making and effective planning.

However, it is important to acknowledge that the timing of FID is inherently variable and influenced by factors outside the applicant's control, such as market conditions, financing arrangements, or regulatory processes. As such, the estimated FID date should be indicative rather than binding, and applicants should be allowed to update this information as their projects progress. This flexibility would avoid unfairly penalising projects that face legitimate delays and ensure that the MRF remains accessible and practical.

Further, we are concerned that it is often difficult to accurately pinpoint an FID date at this stage. To address this, we suggest a milestone-based approach that allows developers to progressively refine their timeline. For example, by [X date], the developer could confirm the intended year; by [Y date], the month; and by [Z date], the specific date. Alternatively, the scheme could be linked to CfD dates and milestones, as these are much easier to manage.

In addition to FID estimates, applicants should also provide indicative timeframes for the construction and operation phases of their projects. This would allow Defra to adopt a more holistic approach in prioritising the allocation of compensation measures, ensuring that earlier-delivery projects are not delayed by longer lead-time measures being reserved for projects with later delivery horizons.

We note that, per the consultation, once the applicant makes the first payment post-FID, the associated consent condition is discharged and liability for implementation of compensation measures transfers to the MRFO. Provided this remains the case, any short timeframe between FID and the start of construction should not impact project progression, even if design refinements after consent alter the understanding of compensation requirements. It will be important that these aspects are clearly reflected in guidance and implementation to provide developers with confidence and clarity.

107. The applicant will submit EoI Part B, and there will be a non-statutory target for Defra (as MRFO) to respond to submission of an EoI form within 60 days.

108. This response will include a full breakdown of estimated cost to the applicant (See Part 1, Section 2: Costs and Charges).

109. Applicants will then pay a deposit fee (see Part 1, Section 2) proportionate to the amount and type of compensation required for the plan or project. This deposit will be non-transferable between plans, projects, and applicants.

Question 21: Do you agree with the proposal of a deposit fee after the applicant has received consent and submitted EoI Form Part B? (Further information on costs in Part 1, Section 2)

[~~Yes~~**/No/**~~I don't know~~]

Our members understand the need for sufficient seed funding, as the MRF needs to ensure it has sufficient funding (cash positive) to ensure compensation measures are effective as soon as possible in advance of the expected impacts which is particularly important for potentially long lead times of compensation measures. However, if is necessary, it is important that the deposit fee is proportionate and refundable if a project faces significant delays or is unable to proceed for valid reasons beyond the applicant's control.

While requiring both a non-refundable reservation fee and a deposit fee is quite significant to expect in upfront costs, it would be preferrable that the single reservation fee is used if feasible. If not possible financially, this can be acceptable if both fees contribute to the payment of the overall fund and are not in addition to the cost of the fund. Reservation and deposit fees should be set to a reasonable and fair price.

Further detail should be set out on measure specific costs at the earliest opportunity.

Question 22: Do you agree with the proposal that each reservation of compensation should be non-transferable between plans, projects and applicants?

[~~Yes~~**/No/**~~I don't know~~]

We do not agree that each reservation of compensation should be non-transferable between plans, projects, and applicants. It may be useful to allow limited flexibility in cases where a project changes significantly but remains within the same developer or ownership group, to avoid penalising projects undergoing genuine changes. Or where compensation is no longer required that this be re-allocated for effective use by another project, provided this process is administered by the MRFO. This ensures compensation is allocated to projects that are actively progressing, preventing speculative reservations and ensuring fair distribution of resources rather than banking.

We propose that if changes to an applicant's compensation requirements are necessary, the applicant should be able to request a variation to the MRF contract. In addition to this, a mechanism is also needed to go the other way as a full suite of potential compensation may be identified on a worst-case basis as part of a 'without prejudice' derogation case but then subsequently refined and reduced, or even eliminated, through Examination scrutiny and subsequent consenting.

110. The applicant will enter a conditional contract with Defra (as MRFO) at the pre-application stage at the time of payment of the reservation fee. This will detail an agreement to the MRF process by the applicant, and an agreement from Defra (as

MRFO) to provide the relevant consent documentation to the applicant. The details of the agreements within the conditional contract will be finalised upon consent being granted, will detail the applicant's agreement to an MRF payment plan, and the MRFO's commitment to discharge the relevant environmental consent conditions.

Question 23: Do you agree with the proposal to have applicants enter into a contract with Defra (as MRFO) at the pre-application stage?

[**Yes**~~/No/I don't know~~]

We agree with the proposal for applicants to enter into a contract with Defra (as MRFO) at the pre-application stage. This ensures both parties have a clear understanding of the terms and expectations before progressing with the application. However, the contract should be flexible enough to accommodate changes that may arise during the development process, ensuring it doesn't become a barrier to applicants dealing with unforeseen circumstances.

EoI Process for a project that already has consent

111. Where projects have already been granted a DCO but are unable to discharge their consent conditions, or where it is determined that adaptive management is required (as the agreed compensatory measures did not have the impact expected when consent was granted); the developer will be eligible to apply to use the MRF. If the LoSCM contains a compensatory measure that is appropriate for the project, an applicant who already has a DCO will follow the below process:
    a) The applicant submits both EoI Parts A and B to Defra (as MRFO).
    b) The forms will be reviewed by Defra (as MRFO) in the same way as other applications.

c) Defra (as MRFO) will provide a full breakdown of costs to the applicant and, if taken forward, the applicant will be required to pay a deposit fee (rather than a reservation fee) or, if they wish, proceed to full payment. Defra (as MRFO) will have a non-statutory target of 60 days to provide this breakdown.
d) Once the EoI form has been reviewed and accepted by Defra (as MRFO), payment of a deposit by the applicant will reserve compensation. Full payment or the first of scheduled payments will secure compensation that may now be used to satisfy consent conditions.
e) The applicant will remain responsible for meeting their DCO requirements and following the existing processes for amending their DCO, if necessary.

Question 24: Is the EoI process for projects with an existing DCO appropriate?

[**Yes**/No/I don't know]

However, our members note that for Non-DCO applications require further consideration, particularly in terms of process flowcharts and payment points, as the current framework appears to be based primarily on the DCO process and may not be directly transferable. For example, operational assets may require contingency marine licences for activities such as cable repairs, which could trigger compensation requirements for benthic impacts. In such cases, while a maximum potential compensation ceiling might be identified, it may never be realised. This could result in the unnecessary allocation, or effective banking, of limited benthic compensation capacity, reducing availability for other projects and leading to inefficiencies in the system.

EoI Process for Non-DCO/Non-NSIP Projects

112. Projects that do not require a DESNZ-granted DCO must follow their existing planning and consenting process to determine the project's adverse effect on protected sites.

113. During the consent and/or marine licensing decision stages, the applicant must inform the consenting body that they intend to use the MRF to fulfil their compensation requirements, if applicable. The MRFO will then be included as a consultee during the consenting or marine licensing assessment process.

114. Applicants will then submit EoI Part A to Defra (as MRFO). This will include:

a. Details of any compensation requirements informed by SNCB advice; and
b. Fulfilment of all other necessary MRF eligibility criteria outlined in paragraph 91.

115. After submitting EoI Part A, applicants will undertake the same processes as DCO-linked applicants, including adhering (to the best of their ability) to the agreed timescale to submit their section 36 consent (or equivalent) and/or marine license application(s), and paying the reservation fee.

116. After reserving a measure and applying for consent, projects will subsequently progress through the relevant decision-making processes.

117. Once DCO is granted, MRF applicants will submit EoI Part B, providing their Ministerial consent (or equivalent) and paying the deposit.

118. Where a plan/project already has DCO, MRF applicants submit both EoI Part A and B (see paragraphs 124-125).

119. When Defra (as MRFO) has reviewed and accepted the EoI form/s, an applicant with DCO will be required to pay a deposit fee only (but not a reservation fee), after which compensation will be reserved.

120. The applicant will be responsible for providing the consenting authority with the MRFO's confirmation of reserved compensation.

Significant Project Variations

121. If an MRF applicant needs to significantly redesign their plan/project in a way that materially changes its compensation requirements, they will need to submit a new EoI form and begin the application process again. In these circumstances, applicants will be able to transfer their reservation fee and/or deposit to the new application within an agreed timeframe. If the developer does not proceed within a time-period agreed by the MRFO, their reservation fee will be forfeited.

122. Any changes to the plan or project and associated estimated compensation requirements will need to be detailed in a new EoI form.

123. See paragraph 137 for information on how this will affect the costs to the MRF applicant.

Plans or Projects transferring mid-compensation plan

124. All plan promoters and project developers seeking to move from their own compensation plan to use the MRF must undertake the MRF's EoI application process. If the MRF applicant has a DCO (or equivalent) and the species or habitat affected by the project has an appropriate measure in the LoSCM, the applicant can proceed to the post-consent MRF route.

125. Where the applicant's existing DCO does not allow for the applicant to utilise the MRF, the applicant remains responsible for applying for any necessary 'change requests' to the DESNZ SoS.

Question 25: Is the process for projects transferring mid-compensation plan appropriate?

[**Yes**~~/No/I don't know~~]

The process for projects transferring mid-compensation plan should be carefully considered to ensure fairness and transparency. While we recognise that project changes or transfers may occur, the process should ensure that compensation remains aligned with the original environmental impacts and project objectives. To avoid negative impacts on developers who have already entered an agreement with Defra for a compensation measure, any transfer process must include safeguards that protect existing commitments.

Plan promoters Applying to the MRF

126. Plan promoters[10] will be able to apply to the MRF for plan-level compensation, if the LoSCM contains appropriate compensatory measures. In such circumstances, once a plan promoter has undertaken their plan-level environmental assessments, the likely adverse effects of future projects on the integrity of protected sites will be identified. A plan promoter would be able to apply to the MRF through the process outlined for non-DCO projects.

Limits to Compensation

127. The quantity of compensatory measures available will depend on the MRF's ability to source ecologically feasible measures. If compensation is limited, applicants will be accepted and subsequently allocated their reserved compensation according to the submission date of their EoI Part A. The quantity of compensatory measures available will be published in the LoSCM. If a compensatory measure no longer has capacity to provide further compensation to new applicants, or the status of the deliverability of the measure changes, it will be removed from the LoSCM and reintroduced if further capacity becomes available.

Question 26: Do you have any other comments on the application process as described above?

In response to EoI Part A:

We recognise and support the need for appropriate checks and balances within the MRF process to prevent the speculative or excessive reservation of compensation measures. However, we believe this objective can be met through a more streamlined and proportionate set of initial entry requirements. In particular, we suggest that the core elements of EOI Part A should include: (I) evidence of a seabed agreement, (II) relevant project details, and (IV) a summary of the anticipated adverse effects requiring compensation, accompanied by payment of the reservation fee. A consultation log with the SNCB could be included as a supplementary document, but agreement or authorisation from the SNCB should not be a prerequisite for acceptance by the MRFO.

We acknowledge that elements of (V) the proposed SCM and amount required, and (VIII) project timescales, may also provide useful context. However, these areas require further clarification. For example, it is unclear whether the key timescale referenced in VIII relates to project implementation (as suggested in paragraph 91 of the main document) or the date of application submission (as stated in Annex A, paragraph 3).

With regard to requirement V, we recommend a more flexible approach where access and payment into the MRF support a broader suite of ecosystem resilience measures, rather than requiring applicants to specify a particular compensation measure. This would be especially valuable in the context of anticipated Environmental Assessment reforms, which are expected to facilitate non-like-for-like compensation and support more strategic, landscape-scale interventions. Such an approach could significantly accelerate offshore wind deployment.

We also have concerns about the use of upper SNCB impact values to determine non-refundable reservation fees, particularly in cases such as ornithological compensation, where there have been notable discrepancies between SNCB-recommended values and those ultimately determined by the competent authority. This could lead to excessive and unnecessary reservation of measure capacity, reducing the availability of compensation for other projects and potentially creating delays or forcing developers to pursue independent solutions. To mitigate this, we recommend that the risk and responsibility for estimating the appropriate compensation amount rest with the applicant or plan promoter accessing the MRF, rather than being set by SNCBs or the MRFO at the reservation stage.

Further clarity is also needed on how the MRF and SMRF interact with strategic plans, for example, compensation measures identified through the Crown Estates HRA for offshore wind leasing round 5, and HRA work currently being undertaken by the Scottish Government for the updated Sectoral Marine Plan for Offshore Wind Energy. Strategic planning should provide an opportunity to streamline rather than duplicate efforts, for example, avoiding the need to reapprove or renegotiate compensation measures that have already been identified and scrutinised at the plan level.

In response to EoI Part B:

Our members support the proposed approach of including a post-determination step to refine the MRF allocation request and agree on timelines for further payment and the discharge of liability. We particularly welcome the clear proposal that liability is transferred to the MRFO immediately upon payment, providing certainty for developers. However, we believe additional flexibility is needed to allow refinement of compensation requirements at later stages, particularly to account for design modifications or operational updates.

In cases such as contingency marine licences for operational assets, where activities that may trigger compensation (e.g. benthic impacts) are uncertain or may never occur, it is essential that the MRF process accommodates this uncertainty. A separate process should be developed for these types of consents, allowing for the reservation, confirmation, and discharge of liability only when the compensatory requirement is confirmed, in order to avoid tying up compensation capacity unnecessarily.

We also agree with the proposal that the MRFO should manage the reallocation of reserved compensation, and that developers or plan promoters should not have the ability to transfer or sell capacity, avoiding the creation of a secondary market. However, the guidance should explicitly account for the possibility of project ownership changes or shifts in shareholding structures, clarifying that such changes do not affect access to, or obligations under, the MRF.

Finally, we welcome the flexible access arrangements proposed for projects engaging with the MRF outside the standard flowchart set out in Annex A. It is realistic that already consented projects with independent measures may wish to access the MRF as part of their own adaptive management processes. Additionally, unforeseen impacts may be identified during examination or marine licensing stages. We understand that the process is designed to accommodate such scenarios, and we support the inclusion of mechanisms that allow entry into the MRF at these varied points, with the ideal scenario being early planning during the pre-application stage.

Section 2: Costs and Charges

MRF Quote

128. Following receipt of EoI Part A, Defra (as MRFO) will provide the applicant with an estimated quote for the full cost of the SCM.

129. This quote may be adjusted during the renegotiation phases of the EoI process and/or as Defra (as MRFO) receives more information about the required SCM, but the price will be fixed for the applicant once the post-consent contract is final.

[10] Plan promoters includes The Crown Estate, as well as those responsible for identifying areas for transmission and network infrastructure (e.g. the Future System Operator), or marine planning authorities.

Reservation fees

130. After receiving the quote from the MRFO, applicants will pay a reservation fee based on this quote. The reservation fee is priced within bands according to the estimated quantity and type of compensation required for the plan or project. The reservation fee will be non-refundable, can only be used by the applicant it was reserved by, and cannot be transferred between consent applications.

131. As shown in the table below, for compensation with a total cost of under £5m, the reservation fee will be £75,000. For compensation with a total cost between £5m-£10m, the reservation fee will be £125,000. For compensation with a total cost greater than £10m, the reservation fee will be £200,000.

Table 1: Breakdown of the Reservation Fee

Charges	Detail
Reservation Fee	Proportionate to estimated cost of compensation: (**Compensation cost:** Reservation Fee) **<5m** - £75,000 **£5m-£10m** - £125,000 **>£10m** - £200,000

Question 27: Do you agree with our proposal to set the reservation fee within bands according to the estimated cost of compensation required (as outlined above)?

[**Yes**~~/No/I don't know~~]

We agree with the principle of banding or tiering reservation fees proportionately to the projects assessed impacts. The reservation fees need to be reasonable and clearly understood by developers early.

Regarding compensation costs, this needs to be transparent and justified to ensure developers contribute proportionately to the environmental impacts of their projects. This prevents disproportionate financial burdens and will foster a sense of fairness across the industry. Further, clear and open cost calculations enhance trust and constructive engagement among stakeholders and will allow for effective monitoring and evaluation of the fund's operations, ensuring that resources are used efficiently, and objectives are met. However, it will be important for the bands to be flexible to adjust for unforeseen changes in compensation needs. This will help ensure developers are not overburdened with fees that do not reflect the actual costs of their compensation measures.

Further consideration as to the tiered costs should be given to requirements for proportionality of pay scale for Non-DCO applications.

Question 28: Do you agree with the proposal that the reservation fee will be non-refundable?

[~~Yes~~**/No/**~~I don't know~~]

We understand the rationale behind making reservation fees and deposits non-refundable, as this can help deter speculative interest and demonstrate a developer's commitment to the compensation process. However, we have concerns that a fully non-refundable fee could place an undue burden on developers, particularly where projects are delayed or cannot proceed due to factors beyond their control.

To strike a fair balance, a refundable or partially refundable fee structure could offer greater flexibility, ensuring developers are not unfairly penalised while still supporting early engagement and commitment. If fees are to remain non-refundable, we recommend that clear and transparent conditions be set out to justify fee retention, such as the recovery of administrative costs or the early expenditure on compensation measures.

We also note that if the reservation fees or deposits are based on high or overly conservative estimates, such as upper-end SNCB values, developers may view them as excessive or disproportionate to anticipated actual costs. This could discourage early engagement and instead prompt developers to access the MRF later in the process, which, while permitted, would be less desirable for the smooth operation of the system and would undermine the objective of de-risking the consenting process. In a worst-case scenario, it may deter developers from using the MRF altogether, thereby failing to meet the policy's intended outcomes.

Our members agree that multiple unresolved challenges regarding fees remain. For example, what if the final compensation required is significantly scaled down? Would the same higher fee still apply? There are numerous situations where it makes sense to allow flexibility regarding refunds. Therefore, we propose that fees be refundable in specific situations rather than applying a blanket ban.

Deposits

132. Defra (as MRFO) will provide a written response to the applicant's EoI Part B to confirm an exact allocation of an SCM, and the applicant will pay a deposit. This response will include a full breakdown of estimated cost to the applicant including:

- the administrative costs of operating the MRF (including overhead costs for Defra, SNCBs, other arm's length bodies, the Welsh Government and Northern Irish Government in relation to the operation of the MRF)[11],
- the cost of delivering the SCM,
- the cost of managing and maintaining the SCM,
- the cost of monitoring the SCM,
- any cost of decommissioning the SCM,
- the cost of the adaptive management charge for the SCM (see paragraphs 139-145).

Question 29: Does the proposed breakdown of costs listed above include sufficient information for applicants to decide whether to pay into the MRF?

[**Yes**/~~No/I don't know~~]

As per our response to question 28, the transparent calculation and justification of the costs should be provided.

133. The deposit will be:
- Specific to the amount and type of compensation required for the plan/project;
- Additional to the reservation fee;
- A proportionate percentage (10% capped at £1m) to the estimated cost of compensation required; and
- Non-transferable between plans/projects and non-refundable.

Table 2: Deposit Fee

Charges	Detail
Deposit Fee	Proportionate percentage (**10% capped at £1m)** to the cost of compensation required, as stated in the DCO (or equivalent) and outlined in the final application form (EoI form part B).

Question 30: Do you agree with the proposal that the deposit fee will be non-refundable?

[**Yes**/~~No/I don't know~~]

Making the deposit fee non-refundable is reasonable to deter speculative applications, unnecessary administration by Defra in terms of fund management, and to prevent delays in rolling out compensation measures, as Defra will need a clear view of what funding is available for cash flow management. However, we have reservations about the proposal to make the deposit fee non-refundable. While the intent is to ensure commitment and deter speculative developers, making the fee non-refundable could be unfair to developers who face unforeseen delays or changes in project circumstances beyond their control.

[11] To calculate this figure, the MRFO will work out total overhead costs based on a reference period of 3 years and how many contracts it will have within this time. The total overhead costs will be split by the number of contracts to get a single overhead figure for each contract.

134. The reservation fee and deposit payments will be deducted from the final charge to the applicant.

135. If a plan or project already has a granted DCO consent (or equivalent), MRF applicants will have a better understanding of the compensation required for their plan or project. These MRF applicants will only need to pay a deposit fee - they will not need to pay the reservation fee.

136. All reservation fees and deposits will be non-refundable.

137. Should the applicant need to increase their compensation requirements due to a change in their plans, or a recommendation from the relevant consenting authority, the MRF applicant will need to:

- pay the difference between the reservation fee band(s), should it change, and/or
- pay the difference to achieve the proportionate percentage of the cost of compensation required for the deposit.

138. Partial or proportionate refunds of the reservation fee and/or deposit, because of lesser or cheaper compensation requirements, will not be issued. However, all payments already made will still contribute towards the final full payment for delivering the SCM(s).

Adaptive Management Payments

139. Adaptive management involves the adjustment or replacement of an SCM if the monitoring of such an SCM finds that it is not functioning as expected. For more information on adaptive management, please see Part 2: Section 2

140. When MRF applicants pay in full for an SCM, the amount to be paid will include an ‘adaptive management’ charge to cover any adaptive management costs. This fee will be set at 30% of the total estimated cost of delivery, maintenance, monitoring, and any decommissioning of the SCM, and will be applicable to all SCMs in the LoSCM. The charge has been set at 30% to ensure there are sufficient funds to cover any costs incurred while delivering the SCM over the long term, while protecting applicants from further charges. This is necessary to allow the DCO requirement on compensation to be discharged at point of payment into the MRF.

141. The MRFO will use this charge to fund adaptive management for SCMs across the LoSCM. This will include:

- Modifying an SCM if the measure is not functioning as intended.
- Any adjustments needed to improve the SCM’s efficacy, including if the SCM has been delivered to specification but has failed to deliver the intended outcome.

- Agreeing a new measure where there is a reasonable guarantee of success that the new proposed measure will meet the required objectives (see paragraph 176).

142. The adaptive management charge will not include:

- Adjustments to the quantity of compensation required if the appropriate authority decides that the adverse effect has been greater than was specified in the original consent.
- Adjustments to the type of compensation if the appropriate authority decides that the adverse effect has been different to what was specified in their original consent, and a different SCM is now required. For example, if a project that had been predicted to only have an adverse effect on seabirds but is later revealed to be having adverse benthic impacts, the adaptive management cost will not cover the required benthic SCM.

143. These adjustments would be considered outside the scope of the adaptive management charge, as the charge is linked to the specific quantity of compensation that was agreed between the applicant and the MRFO. To accommodate these adjustments, the applicant would have to source the adaptive management themselves or purchase further compensation through the MRF. If the LoSCM contained an appropriate SCM, they would follow the usual application process outlined in paragraphs 96-110.

144. The adaptive management charge will be non-refundable, and any unused funds from this charge will be redistributed across the MRF to make up any shortfall in funding for other aspects of delivering SCMs.

145. As part of an MRF applicant's 'adaptive management charge' process, the following will also be agreed:

a) Defra (as MRFO) will be responsible for delivery of the compensation specified in the applicant's contract with Defra (as MRFO).
b) If monitoring data shows that an SCM is not functioning as expected, Defra (as MRFO) will be responsible for delivering adaptive management. (For more information on adaptive management see Part 2, Section 2)
c) If an SCM does not require adaptive management, the adaptive management charge paid will remain non-refundable.

Full Payment

146. An agreed payment plan could require annualised or other scheduled payments. In these circumstances, the developer and MRFO would agree to a schedule of instalment payments which may be over several years or for the lifetime of the project. The amount per instalment will be agreed up front and will be adjusted in line with inflation.

147. Payment plans for each applicant will vary depending on the type of SCM that they are purchasing. Some SCMs may be suited to a one-off final payment. Other SCMs may require significant ongoing costs, alongside the regular monitoring (for example, predator reduction, MPA designation) which may make an agreed payment plan more appropriate.

148. The type of payment plan will be agreed between Defra (as MRFO) and the applicant after the submission of EoI Part B. In instances with annualised or other scheduled payment plans, the contractual arrangements between the MRF and the developer will stipulate obligations imposed on the developer for the fulfilment of payment conditions.

Question 31: If applying to the MRF, which type of payment plan (annualised or instalments, or one-off) would be your preference? Note: the MRFO would ultimately decide which payment plan is appropriate.

We welcome the inclusion of flexible payment options, particularly the ability to choose scheduled payments rather than being limited to a lump-sum approach.

Our member's preference is for a payment plan that allows for instalments, as this would support better cashflow management and align payments more closely with project milestones. An annualised payment structure may suit projects with predictable timelines, while more tailored instalment plans could be better suited to complex or longer-term developments. Requiring a one-off lump sum payment could place unnecessary financial pressure on developers, especially for larger projects, and may ultimately discourage participation.

149. The full charge for an SCM will include:

- The cost of the SCM, including the cost to deliver, maintain, monitor and decommission the SCM.
- The cost of adaptive management, which will be a fee of 30% of the above cost for all SCMs, to fund adaptive management for SCMs across the LoSCM.
- An administrative overhead charge for Defra (as MRFO), and any costs for ALBs, SNCBs and Devolved Governments in relation to the operation of the MRF that are not attributable to individual SCMs.
- All payments already made as a reservation fee and deposit will be deducted from the full charge.

Table 3: Breakdown of the Full MRF Payment

Charges	Detail
- Cost of the compensation measure	Includes the developer's share of the cost to deliver, maintain, monitor and, if necessary, decommission a measure.
- Cost of the Adaptive Management charge	Flat fee of 30% for all measures to contribute to fund adaptive management for measures across the LoSCM.
- Administrative overheads for MRFO, ALBs, SNCBs and DGs.	Considered on an individual basis for each measure.

Question 32: Do you agree with the proposal that full payment (or the first instalment of an agreed payment plan) will be expected from applicants post-FID and prior to the adverse impact occurring?

[**Yes**~~/No/I don't know~~]

We agree in principle that payment, whether in full or in part, should be made post-Final Investment Decision (FID) and prior to any adverse environmental impacts occurring. This approach aligns with the "polluter pays" principle and ensures that funding is secured in time to support the timely delivery of compensation measures. Importantly, we note that once payment is made, this should be sufficient to discharge the applicant's condition requirements, regardless of the subsequent timing or implementation of strategic compensation measures by the MRFO.

However, given the scale and cumulative impacts of the offshore wind pipeline, some projects may need to make payments earlier than FID. This is particularly relevant where compensation measures, such as habitat creation or species recovery, require long lead times to deliver ecological benefits before impacts occur. We therefore recommend that the payment framework incorporates flexibility, enabling earlier contributions, where justified, while also accommodating potential shifts in project timelines due to external factors.

Surplus funds

150. While the aim for the MRF is to be cost neutral to government, it is possible the MRF will accrue surplus funds (for example, if adaptive management is not required). Any initial surplus of funds act as an operating balance and replace the initial seed funding provided by government, subject to the outcome of the Spending Review.

151. As the MRF matures, Defra (as MRFO) will determine an appropriate operating balance. If an excess of funds builds up to be greater than this figure, it may be utilised for the further development of SCMs in the marine environment.

Question 33: Do you agree with our proposal that any surplus funds may be used for the development of SCMs?

[**Yes**/No/I don't know]

We support the proposal that any surplus funds may be used for the development of strategic compensation measures (SCMs), as this could enhance the long-term effectiveness, scalability, and ecological value of the overall compensation framework. Reinvesting surplus funds in this way could also improve future options for developers and support the delivery of outcomes at a broader environmental scale. To ensure transparency and accountability, we recommend that Defra publish regular reports detailing how surplus funds are allocated and the outcomes achieved.

However, greater clarity is needed regarding how surplus funds, particularly the 30% allocation for administrative and monitoring (AM) costs, will be calculated and used. The basis for selecting 30% is not clearly justified, and there is concern that it may represent a significant additional cost, particularly if it is based on potentially inflated compensation values. Our preference remains that developers should be able to discharge their responsibilities at the point of payment. We recommend further consideration of the most appropriate and proportionate approach for the AM fee, including clearer justification and transparency around its use.

Question 34: Do you have any other comments on the proposed costs and charges as described above?

Our members have concerns that the fee scale is geared entirely around DCO applications and is not appropriate for non-DCO operational MLA scale requirements, which may be significantly smaller in scale and/ or not definitively known over the duration of pre-emptive contingency licences.

Regarding SCM cost transparency, compensation measures are currently grouped into broad bands (£5 million, £5-10 million, and £10 million+), which are substantial, especially given that multiple SCMs may be required, and no upper limit applies. Developers can often deliver similar measures at significantly lower cost, raising concerns about cost efficiency and proportionality. Our members agree that Defra should provide full transparency on cost calculations and allocations to ensure fiscal responsibility and reduce costs to consumers. Additionally, we are concerned that surplus funds, as highlighted in our response to question 33, including the 30% adaptive management surcharge, may be retained for further SCM development with no provision for refunds. Where actual delivery costs are lower than contributions, developers should be reimbursed.

Section 3: Discharging of Liability

152. The applicant's DCO requirements pertaining to the reserved SCM will be satisfied once DESNZ has received proof of the agreement of payment with the MRFO and evidence that full payment, or the first of a series of instalments, has been made to the MRF. Upon complete payment to the MRF, and subject to any further conditions in the DCO (or equivalent consent), responsibility for the SCM (including delivery, maintenance, monitoring, adaptive management and decommissioning) will sit with Defra as the MRFO. If an applicant has agreed to a payment plan (instead of making a singular payment post-FID), the contractual arrangements between the MRF and the developer will stipulate obligations imposed on the developer for the fulfilment of payment conditions.

153. Defra (as MRFO) will own and be liable for any assets associated with the compensation including anything considered 'overcompensation', unless other arrangements are made. Any costs or income linked to the asset or SCM will accrue to the MRF, and may be used to pay for the maintenance, monitoring and potential decommissioning of the asset. All responsibility for the delivered SCM will belong to the MRFO, including anything considered 'overcompensation'.

Question 35: Do you agree with our proposal that, when using the MRF, responsibility for an SCM will rest with Defra (as MRFO) at the point that full payment (or the first instalment of a scheduled payment plan) is complete (subject to ongoing payment of instalments)?

[**Yes**/~~No/I don't know~~]

We broadly agree with the outlined approach to the discharge of liability, ownership, and responsibility of measures. This may require further consideration regarding specific arrangements for certain measures/ assets.

This is the simplest way of a turnkey solution being provided for developers. Defra provides a central, trusted body to ensure measures are implemented fairly and transparently.

Defra sits at the heart of UK environmental policy and has access to national ecological priorities, datasets, and marine planning frameworks. It's better placed than individual developers to coordinate large-scale, cumulative, and long-term recovery strategies, which are often more impactful than piecemeal actions. Many compensation opportunities require coordination across multiple projects and regions.

If Defra oversees the compensation, it is more likely to satisfy legal requirements under the Habitats Regulations. Natural England, the MMO, and Defra are often already involved in assessing project impacts. Having Defra lead ensures alignment with regulatory expectations and a Scottish MRF, which could reduce challenge risk and boost developer confidence.

However, centralised control often comes with slower processes, particularly in procurement, approvals, contracting, etc. Defra will need to ensure efficient management systems and sufficient resources are assigned to the implementation of the MRF compensation measures.

Question 36: Do you agree with the proposed approach to MRF's ownership of and responsibility for any compensation assets or SCMs?

[**Yes**/~~No/I don't know~~]

We broadly agree with the proposed approach for the MRF's ownership of and responsibility for compensation assets or SCMs. This is the simplest way of a turnkey solution being provided for developers. Centralising responsibility within Defra (as MRFO) can provide consistency in delivery, monitoring, and long-term stewardship of compensatory measures, which is particularly valuable for strategic, large-scale solutions. However, clear governance arrangements, accountability mechanisms, and long-term funding plans will be essential to ensure these assets are effectively managed and deliver intended ecological outcomes over time.

We caution that care will be required to avoid any risks of actual or perceived conflicts of interests arising given that Defra will be both the competent authority (HRA decision maker) in respect of the acceptability of predicted impacts from projects of and associated compensation measures as well as the operator of the MRF which projects may rely on to discharge environmental obligations.

While we support Defra's role of managing and implementing the MRF, there is a risk that Defra owning the library of strategic compensation measures could lead to vetoing or restricting the use of or change the status of specific measures rather than relying on the established collaborative Collaboration on Offshore Wind Strategic Compensation (COWSC) governance process. This process would benefit from clear governance, transparency, and accountability mechanisms to ensure the process delivers on its goals.

Part 2 – Policies and Consultation Questions on Delivery

Section 1: Delivering Compensation

154. The MRF intends to deliver more effective SCMs to compensate for the adverse environmental impacts of offshore wind-related activities on protected sites. This section explains how the MRF will deliver compensation and ensure its ecological feasibility.

SCMs and The Collaboration on Offshore Wind Strategic Compensation (COWSC)

155. The MRF will only deliver SCMs deemed suitable by the Defra SoS (or, where relevant, Ministers in the Devolved Governments) and drawn from the LoSCM. (See paragraphs 40-47)

156. The LoSCM currently contains three SCMs approved for use in English waters:

- Artificial Nesting Structures (up to and including Round 4)
- Predator Reduction
- MPA Designation

157. The contents of the LoSCM will expand as COWSC continues its work to identify and propose further SCMs. Every SCM in the LoSCM will have an IMP that will outline

how the SCM is to be delivered and maintained on a strategic scale. This IMP will include Key Performance Indicators (KPIs) that will be used in monitoring to identify if the SCM is functioning as intended.

Choosing an SCM with SNCB Advice

158. Applicants will be expected to consult with SNCBs during the planning and consenting process, as is current practice, to ensure the adverse effect will be sufficiently compensated for with the SCM that they are selecting. When an applicant is selecting the SCM that they would like to purchase, they will have to provide SNCB confirmation that they have adhered to the mitigation hierarchy and are seeking compensatory measures as a last resort (for more information on the role of SNCBs, see Part 3: Section 2).

IMPs: SCM delivery body IMPs and MRF IMPs

159. The MRFO will use the SCM delivery body IMP to develop an applicant-specific MRF IMP. The SCM delivery body IMP refers to the IMP developed by the SCM delivery body, such as COWSC. The MRF IMP refers to the specifics of how the applicant's selected SCM will be implemented and monitored. The MRF IMP will be supplied to DESNZ SoS as part of the consenting application.

Responsibility for SCMs and Monitoring

160. The MRFO will endeavour to deliver the SCM prior to the impact occurring. The SCMs will be implemented according to the applicant-specific MRF IMP, informed by the SCM delivery body IMP. If required, the MRFO may contract a third party to deliver the SCM.

161. Unless other arrangements are made, the MRFO will hold responsibility for all delivered SCMs. This includes their continued monitoring, evaluation, adaptive management and decommissioning.

162. Monitoring will take place to ensure that all SCMs are functioning as intended against the KPIs provided by COWSC. If monitoring reveals that the SCM is not functioning as intended, the MRFO will implement adaptive management. (for more information on adaptive management see Part 2, Section 2).

163. Defra (as MRFO) may contract an appropriate organisation to monitor and report on the SCM's performance. This reporting, as well as advice from SNCBs, will inform the provision of any adaptive management for the SCM. Monitoring will vary depending on the type of SCM. Monitoring reports will also be provided to DESNZ (and/or Devolved Ministers where relevant). The cycle of monitoring, reporting and implementation of any adaptive management will be continuous over the lifetime of the SCM to ensure that the compensation requirements continue to be satisfied.

‘Complete’ compensation and Decommissioning of SCMs

164. SCMs (or their adaptive substitutes) must remain in place until the impact triggering the need for compensation has ceased and there is no further impact or adverse effect on the site’s integrity which remains to be compensated for. Defra (as MRFO) will utilise appropriate technical advice to decide when the need for compensation has ceased.

165. Each SCM will be decommissioned on a case-by-case basis, considering the ongoing ecological benefit of the SCM, costs, risks, and the wider environmental and political situation at the time.

166. An SCM may not be decommissioned if it can be reallocated to another development seeking strategic compensation through the MRF, if appropriate, or an alternative purpose can be found. When considering options for decommissioning, each SCM will be considered on a case-by-case basis.

167. For some impacted features, it might be necessary to keep the SCM permanently if a feature was destroyed or allow an additional time-period for the habitat to recover from the adverse effect.

168. Any costs of maintaining the SCM until all projects that applied for the compensatory measure are decommissioned will be borne by the MRF.

Question 37: To what extent do you agree that the above processes outlined in paragraphs 154-168 will enable the MRF to deliver ecologically feasible compensation?

[Strongly disagree/Disagree/Neither agree nor disagree/**Agree**/Strongly Agree]

We broadly agree that the processes outlined in paragraphs 154 –168 provide a solid foundation for the MRF to deliver ecologically feasible compensation. The structured approach to project engagement, funding mechanisms, and delivery timelines, alongside early involvement of Statutory Nature Conservation Bodies (SNCBs) and strategic oversight by Defra, should support effective and timely implementation of compensation measures.

However, realising ecological feasibility in practice will depend on several key factors: timely payments, early deployment of measures where long lead-in times are required, and robust long-term monitoring and management. Flexibility within the process to accommodate project-specific and environmental uncertainties will also be critical. In addition, we highlight the urgent need to expand the Library of Strategic Compensation Measures (LoSCM), as limited availability of SCMs could become a significant bottleneck to rapid deployment and full utilisation of the MRF. Prioritising the development and diversification of the LoSCM will be essential to ensure compensation measures are ecologically viable and readily implementable.

Clarity is still required regarding what happens if an applicant agrees to use a specific SCM, reaches its capacity, and further compensation is still required. Without resolving this issue, applicants could be left in limbo with an unclear path forward to meet their compensation requirements.

Further, a process that is missing from the consultation is how to proceed when a developer and a SNCB dispute over the compensation required for a project.

Question 38: Is there anything in addition to the above that the MRF should consider to improve the process of delivering compensation?

Our members agree the MRF could be significantly strengthened by enabling early-stage funding for strategic compensation measures (SCMs) with long lead times, adopting an adaptive management approach informed by robust monitoring, and increasing transparency through regular reporting. In addition, fostering collaboration with industry and NGOs will be critical to supporting effective, scalable, and timely compensation delivery.

Ensuring the effective delivery of SCMs will also require consideration of the timescales over which measures need to be in place, with clarity on how any long-term liabilities (such as decommissioning) will be addressed.

We note concerns regarding the current limitations of the compensation options available, particularly for benthic features. At present, the only widely accepted benthic compensation measure in the Library of Strategic Compensation Measures (LoSCM) is the designation of additional Marine Protected Areas (MPAs).

Our members disagree with the proposed process step requiring formal agreement from SNCBs that mitigation has been adequately applied prior to application submission. This risks duplicating existing assessment and decision-making processes, and could become a procedural bottleneck, potentially delaying applications unnecessarily.

Finally, we welcome the ability to renegotiate the compensation requirements, which may have changed throughout the examination process and/or decision stage. However, it is relatively common for impact assessments and compensation requirements to be updated through an Examination so a need for renegotiation in the majority of cases should be expected and built into the system, rather than only applying in exceptional cases. Without this, finite compensation measures risk being used up and unnecessarily to compensate for some impacts (or scale of impacts) which would not actually occur.

Section 2: Adaptive Management

169. Adaptive management is the adjustment or replacement of an SCM if the monitoring of such an SCM reveals that the SCM is not functioning as expected.

170. SCMs may require adaptive management to ensure they function effectively throughout their lifetimes.

171. All applicants to the MRF will be required to pay an Adaptive Management Charge. For more information on how this charge will be calculated and what it will be used for, see Part 1, Section 2: Costs and Charges.

172. Monitoring of SCMs will be undertaken on a case-by-case basis (see paragraph 199) and will reveal if an SCM is not functioning as expected. If the SCM is not functioning as expected, the MRFO will activate the adaptive management plan for an SCM, as outlined in the corresponding MRF IMP.

173. Adaptive management can include:

- modifying existing SCMs; or

- agreeing a new SCM where there is a reasonable guarantee of success that the new proposed measure will meet the required objectives.

174. The details of the adaptive management for each SCM will be shaped by COWSC's Key Performance Indicators (KPIs) for an SCM. KPIs for each SCM will be supplied by COWSC in the IMPs attached to each SCM in the library.

175. The adaptive management recommendations will have three phases, referred to as the adaptive management hierarchy. This approach aligns with current practice and provides a structure for Defra (as MRFO) when implementing adaptive management.

176. There are three phases of the hierarchy:

- 'Adaptive management actions', for example, actions taken to improve the efficacy of the existing SCM – such as an improved version of predator reduction.
- 'Adaptive management substitute measures', for example, entirely new measures that need to be delivered because amending the delivery of the original measure to improve its efficacy is not feasible.
- 'Adaptive management second substitute measures', for example, a new measure targeted at other benefits to the MPA network. These will still be a measure or package of measures selected from the LoSCM.

177. The hierarchy will ensure that adjustments are ecologically efficient and cost effective. Any measures used for adaptive management, at any stage of the hierarchy, will also have to be published in the LoSCM.

178. If a project delivering their own project-level compensation without using the MRF required an alternative measure as part of their adaptive management process, they could apply for use of the MRF to deliver this. If the SCM they require is available via the LoSCM, applicants would follow the same standard MRF process, as outlined in paragraph 112. These applicants would still be subject to the adaptive management charge.

Question 39: Is each stage of the adaptive management hierarchy clearly defined?

[**Yes**/No/I don't know]

The three stages of the adaptive management hierarchy are generally well-defined and provide a useful framework for maintaining ecological effectiveness. The tiered approach offers clarity on how compensation can be adjusted if initial measures underperform.

To strengthen the process, Defra should also consider how to address situations where compensation measures prove more effective than anticipated, or where the actual impacts are less than initially assessed. Incorporating a mechanism to review and potentially scale back or reallocate overcompensation while maintaining ecological integrity would enhance fairness, resource efficiency, and trust in the system. Additionally, illustrative examples and clear criteria for progressing between adaptive stages would support transparency and stakeholder confidence.

Question 40: To what extent do you agree with our proposals for Adaptive Management, outlined above?

[Strongly disagree/Disagree/Neither agree nor disagree/**Agree**/Strongly Agree/I don't know]

We welcome the flexibility for projects to access the MRF as part of their own adaptive management (AM) process, particularly in cases where the strategic compensation measures (SCMs) available through the MRF were not part of the project's original compensation package. This approach supports a more dynamic and responsive compensation framework, enabling adjustments based on real-world project performance and evolving ecological needs.

We generally support the proposed approach to adaptive management outlined in the consultation, as it provides a structured process for refining compensation measures in response to new data and monitoring outcomes. This is essential to ensuring that compensation remains effective throughout the project lifecycle. However, we recommend including provisions to reassess the adaptive management charge in cases where compensation measures significantly overperform or where the actual environmental impacts are lower than originally assessed. Allowing developers to review and potentially adjust their financial commitments in such cases would promote fairness and help avoid disproportionate costs for projects that exceed their ecological obligations.

The requirement that all applicants to the MRF must pay a 30% charge seems disproportionate and is intended to cover Defra's liabilities rather than being related to the risk of any measure actually requiring adaptive management. Other sections of the consultation acknowledge that once payment is made, the MRF could use this money to fund other measures if evidence indicates that the originally selected measure is less effective than first predicted. If the 30% charge is to remain, then the surplus generated beyond covering all adaptive management costs must then contribute to developing further SCMs with demonstration of how this money is being deployed.

Additionally, if compensation is successful and the funds provided for adaptive management are consistently not used, there should be room to revise and potentially scale back the predicted costs and expectations for adaptive management. This would help foster confidence and trust in the system by demonstrating a willingness to be transparent and revise when reasonable.

Part 3 – Policies and Consultation Questions on Cross-Cutting Considerations

Section 1: Cross Boundary Adverse Effects

179. Scottish Ministers have requested delegated functions to enable them to operate a Scottish MRF that aligns with Scotland's unique consenting and licensing requirements. Scottish Ministers will determine the appropriate compensatory SCMs on offer through it.

180. Defra and the Scottish Government have agreed the two funds should operate on the following principles:

a) The Funds will deliver a more streamlined process for securing compensation required in respect of offshore wind developments and will do so in a way that enables strategic environmental benefits to be delivered.
b) The Funds will be tailored to each nation's unique constitutional, legal and sectoral needs, maximising their effectiveness and value.
c) The Funds will work in close partnership, with opportunities to broadly align approaches being sought wherever possible and practicable.

181. For clarity, this section will refer to the MRF and the Scottish MRF, whereby the MRF is the subject of this consultation and refers to the fund that will primarily accept applications from projects consented in England, Wales, and Northern Ireland, while the Scottish MRF refers to the Scottish fund that primarily accepts applications from projects consented in Scotland.

Delivering compensation through two Marine Recovery Funds

182. For projects with adverse effects on the integrity of protected sites where the project is consented, the following process will apply:

a. If a project is consented in England, Wales, or Northern Ireland, then applicants wishing to use a Fund for strategic compensation would apply to the MRF.

b. If a project is consented in Scotland, applicants wishing to use a Fund for strategic compensation would apply to the Scottish MRF.

183. For projects with adverse effects on the integrity of protected sites in the jurisdiction of a different MRF to where the project is consented – such as English projects with adverse effects on the integrity of Scottish protected sites – the following process will apply:

a. Where a project has adverse effects on the integrity of protected sites in the jurisdiction of both the MRF and the Scottish MRF – for example, a project consented in England with adverse effects on the integrity of protected sites in both England and Scotland – developers would apply to the Fund where their

project is consented to address impacts in that jurisdiction.

b. To compensate for adverse effects on the integrity of protected sites in the jurisdiction of the other MRF, developers will choose whether to apply to the Fund where their project is consented or where the adverse effect occurs. For example, a project consented in England with adverse effects on the integrity of protected sites in both England and Scotland could choose whether to apply to the MRF or Scottish MRF to address adverse effects on protected sites in Scotland. Applicants would have this choice when addressing adverse effects on the integrity of protected sites for either mobile or benthic features.

184. The relevant determining authority will remain responsible for deciding whether the SCMs secured through an MRF are sufficient to meet the compensation requirement for a project, regardless of the jurisdiction of the MRF that developers apply to.

185. After thorough consideration of all the options, this approach was considered most effective at reducing complexity and speeding up decision-making within the planning and consenting process across the UK for projects with cross-border effects.

Question 41: Do you agree with our proposal that developers should choose which Fund to apply to in the circumstances outlined in paragraph 183b?

[**Yes**/No/I don't know]

We welcome the intention to align the Marine Recovery Fund (MRF) with the Scottish Marine Recovery Fund (SMRF), as a consistent approach across jurisdictions will support clarity and coherence for developers operating in different parts of the UK. Our members agree with the proposal for developers to be able to choose which fund to apply to, as outlined.

However, it is essential that both Funds are aligned not only in intent but also in their processes, funding mechanisms, and expectations. Without such alignment, there is a risk of 'forum shopping', where developers may favour one Fund over another if it is perceived to be more flexible, cost-effective, or administratively straightforward. Ensuring consistency will help maintain a level playing field, support effective compensation delivery, and reinforce the integrity of the overall strategic compensation framework.

Question 42: To what extent do you agree with our proposal for the way in which the two Funds will interact to address cross boundary impacts?

[Strongly disagree/Disagree/Neither agree nor disagree/**Agree**/Strongly Agree/I don't know]

We broadly agree with the proposed approach for how the Marine Recovery Fund (MRF) and the Scottish Marine Recovery Fund (SMRF) will interact to address cross-boundary impacts. It is essential that the two Funds are coordinated and that compensatory measures are aligned across jurisdictions to reduce the risk of double-counting, gaps in compensation, or conflicting outcomes. This alignment will help ensure a more integrated and ecologically coherent approach to environmental protection, particularly for species and habitats that span multiple regions.

We welcome the flexibility to use either Fund where cross-boundary effects occur, as well as the potential for flexibility in accessing measure capacity across both Funds. This will be crucial in supporting the development of a broader, interconnected network of strategic compensation sites. While acceptance into either Fund should remain at the discretion of the respective Marine Recovery Fund Operators (MRFOs), allowing for cross-fund coordination on measure capacity would strengthen the overall effectiveness and resilience of the compensation framework.

To further enhance coordination, we recommend clearer guidelines on how the Funds will manage overlapping responsibilities and reconcile potential conflicts between local and regional priorities. Strong mechanisms for communication and collaboration between the managing bodies of the two Funds will also be critical to ensure transparency, accountability, and smooth delivery of compensation at scale.

We strongly encourage the role of SNCBs in addressing cross-boundary impacts and compensation proposals to be clarified. The consultation indicates that projects will only need to apply to their host country MRF (unless they wish to use both the MRF and the Scottish MRF), which should avoid dual compensation burdens and prevent Scottish projects from being subject to English requirements, such as Offshore Wind Environmental Standards (OWES).

However, as Natural England would continue to be a consultee in relation to any impacts from Scottish projects on English SPAs, the scope of their role and ability (or not) to comment on compensation proposals linked to the Scottish MRF may need to be clarified. Our members do not support Natural England being a decision maker for projects applying to the Scottish MRF and/or having the ability to object or request certain compensations, as this will delay and complicate the consenting and assessment process, rather than help streamline it. Instead, these powers should solely be reserved for NatureScot in Scotland. Ensuring this is clear and managed correctly from the outset is crucial, as it will disincentivise Scottish projects.

Section 2: Role of SNCBs and other relevant bodies

186. In addition to the consenting authorities, there are other relevant bodies who will have a relationship with the MRF:

a. Statutory Nature Conservation Bodies (SNCBs)[12], who have a statutory role in the consenting process, providing expert advice and evidence to the Planning Inspectorate (PINS), DESNZ SoS, and Devolved Minsters including NRW in delivery of Marine Licenses. They also provide advice to developers and the relevant regulator(s) on the potential adverse effects a project may have on the integrity of protected sites, how they can be addressed, and options for compensatory measures.
b. The Marine Management Organisation (MMO) who grant marine licences under MCAA for projects in English waters (including those that are not deemed by the DESNZ SoS during the DCO process) and consent under s. 36 of the Electricity Act 1989 for the generation of electricity if the generating station will have capacity between 1 and 100MW.
c. NRW, acting on behalf of the Welsh Ministers, who grant marine licences under MCAA (as amended by the Wales Act 2017) for projects in the Welsh inshore and offshore regions. DESNZ SoS may deem a marine license for a DCO project in the offshore area, in certain circumstances where the whole project is located in the offshore region, with NRW agreement.
d. DAERA is responsible for both nature conservation and marine licensing in the Northern Ireland inshore region.

187. These SNCBs have existing statutory and non-statutory roles in the consenting and licensing of offshore wind projects in English, Welsh and NI waters:

- Natural England (NE),
- Natural Resources Wales (NRW),
- the Joint Nature Conservation Committee (JNCC) and,
- the Council for Nature Conservation and the Countryside (CNCC),
- the Department for Agriculture, Environment and Rural Affairs (DAERA).

188. SNCB responsibilities include advising on potential impacts, advising on compensatory measures and monitoring the condition of the Marine Protected Area (MPA) network.

189. The MRF does not change existing SNCB roles in the offshore wind planning and consenting process. Defra (and Devolved Ministers where relevant) will ensure that

[12] Natural England (NE), the Joint Nature Conservation Committee (JNCC), Natural Resources Wales (NRW), NatureScot.

SNCBs have the capacity to carry out their role effectively if demand for SNCB input increases (for more information see paragraph 200).

Before applying to the MRF

190. As part of the planning process, SNCBs will continue to provide the applicant with expert advice on:

- the possible impacts on protected sites and species, as well as wider marine environment,
- the requirements for ecological assessments,
- suitability of compensation proposals,
- guidance on environmental regulations.

191. Applicants wishing to use the MRF will be required to make use of this Discretionary Advice Service (DAS). Relevant SNCB comments will be required to complete the applicants' EoI application to the MRF; therefore no additional function is required from the SNCBs at this stage. SNCBs will be able to cost-recover for this service via direct charges to the applicants, as per current practice.

192. SNCB comments on the suitability of the type and quantity of compensation that the applicant wants to secure will inform the MRFO's decision to reserve compensation for a specific project. The quantity of compensation reserved will be based on the upper estimate of compensation required, as advised by the SNCB(s), and without prejudice to the consenting authority.

193. The applicant must demonstrate that the relevant SNCB(s) are content that they have exhausted the mitigation hierarchy and will therefore likely require compensation, subject to the consenting authority's decision.

DCO and Marine Licence applications

194. SNCBs will maintain their current roles in assessing DCO applications (or their equivalents) and marine licences.

Choosing Measures for the Library of Strategic Compensatory measures

195. SNCBs have representatives in relevant COWSC groups through which they will be able to recommend new SCMs for the LoSCM. The process for choosing new SCMs is set out in paragraphs 40-47.

196. After an SCM has been added to the LoSCM, an Implementation Group will be formed with SNCB representation to produce an IMP for use by the MRF Operator.

Location for the delivery of an SCM

197. COWSC will make a recommendation on the potential location options for each agreed SCM, and will prioritise ecological impact, deliverability and site suitability. SNCBs will be able to advise on a case-by-case basis whether the location proposed is the right one.

Welsh and Northern Irish SNCBs

198. Welsh SNCBs, DAERA, and JNCC in Welsh and Northern Irish offshore waters, will have a role in:

- Advising the MRFO that compensation is suitable for a project, either:
  - within their waters, or
  - with cross-jurisdictional impacts on their waters (including if compensation is delivered inside and/or outside DG waters)[13]
- Analysing the data from monitoring and feeding into adaptive management plans.
- COWSC to advise on the inclusion of new SCMs.
- SNCBs with the remit for Welsh and Northern Irish offshore waters will exercise these roles as appropriate.

Monitoring

199. The MRFO will be responsible for ensuring the monitoring of SCMs. Defra (as MRFO) may contract monitoring to a suitable body, to be determined at the discretion of Defra (as MRFO). Monitoring of SCMs will be determined on a case-by-case basis for each SCM delivered. If monitoring requires SNCB involvement, any additional function specific to the MRF will be cost-recoverable.

[13] If a project in a particular jurisdiction is having a cross-boundary impact in another jurisdiction within the scope of the MRF, the MRFO would encourage the use of a measure that has been approved for use across all jurisdictions using the UKG MRF. The SNCBs from each jurisdiction involved will be able to come to an agreement on suitable compensation through the current consenting and licensing process.

Additional Costs

200. There may be instances in the delivery, monitoring and management, of SCMs where the MRFO will need to consult with SNCBs. Associated costs will be covered in the 'Administrative Overhead' charge to developers.

Question 43: Will the approach outlined allow SNCBs to carry out their role effectively?

~~[Yes~~/**No/**~~I Don't Know]~~

As noted previously, we have concerns about using upper SNCB assessment values as the basis for MRF reservation and the requirement for evidence of agreement with SNCBs on several matters before accessing the MRF. This approach effectively grants SNCBs a "gatekeeper" role that they do not typically hold, which could inadvertently hinder the uptake and use of the MRF, ultimately slowing the deployment of offshore wind projects.

The involvement of SNCBs at the pre-application stage in this capacity could create unnecessary delays and barriers to deployment, potentially slowing down both development timelines and the submission of applications. Reducing the scope of SNCBs' gatekeeper role at this early stage would help streamline processes and accelerate the progression of offshore wind projects as well as easing pressures on resourcing.

Part 4 – Final Comments

Question 44: Do you agree that the proposed operation of the MRF provides applicants with sufficient confidence that the consent requirements for environmental compensation will be met when using the MRF?

[**Yes**/~~No/I don't know~~]

Given the MRF's vision, yes, it could be effective. It aims to deliver pre-identified, evidence-based compensation measures (e.g., new MPAs or artificial nesting sites), offering ready-made solutions that de-risk individual projects. This ensures compensation is in place early and at a larger scale, which is more effective than case-by-case mitigation.

The pooled resource model enables better coordination and cumulative impact management, which individual developers can't achieve alone. With Defra leading and input from regulators, conservation bodies, and developers, the governance structure is strong. It is designed to help developers comply with the Habitats Regulations and other legal obligations.

However, the final delivery model is still unclear. Without clarity on project selection, monitoring, enforcement, and expected financial commitments, developers and regulators may hesitate to rely on it fully for consent. Mismatches between fund contributions and actual compensation costs or timing could reduce confidence in meeting legal obligations. The MRF won't replace all project-level compensation, and bespoke mitigation may still be needed in some cases.

Successful interface between Plan development and strategic compensation delivery has a significant opportunity to provide the enhancement, capacity and resilience that would support project delivery. The Plan making process follows very distinct steps, whilst it is indicated that 'Plan's' would access the MRF through the EoI Non-DCO process, it is project focused rather than reflective of Plan making and the benefits of Plan level strategic compensation.

Question 45: To what extent do you agree the MRF will help to speed up the deployment of offshore wind? Please provide any supporting evidence in the open text box provided.

~~[Strongly disagree/Disagree/~~**Neither agree nor disagree**~~/Agree/Strongly agree/I don't know]~~

While the MRF offers a welcome standardised pathway for developers to contribute to a central fund, rather than creating bespoke solutions, our members agree that it will not necessarily significantly accelerate the deployment of projects that are not yet consented or in the application process. This reflects concerns that the current access requirements may be more complex or duplicative than necessary, and we would welcome efforts to ensure they are proportionate and practical to facilitate timely implementation.

The MRF has the potential to streamline compensation by coordinating actions at scale, focusing on ecological priorities, and unlocking synergies, rather than requiring every developer to find limited compensation opportunities (e.g., kittiwake nesting structures). If supported by Defra, Natural England, and the MMO, in alignment with the Scottish Government and NatureScot, it could provide more legal and policy certainty, reducing the risk of judicial reviews and costly delays. As highlighted in response to Question 26, clearer guidance is needed on plan-level compensation requirements and the interface between these requirements and the MRF to ensure the system functions effectively.

Question 46: To what extent do you agree the MRF process is an attractive alternative to delivering compensation independently?

~~[Strongly disagree/Disagree/~~**Neither agree nor disagree**~~/Agree/Strongly agree/I don't know]~~

We welcome the Marine Recovery Fund (MRF) in principle, as we agree that it can be preferable to applicant or developer-led independent measures. It is especially necessary for enabling compensation measures that may require government intervention. We support the proposal that payment into the MRF should result in the complete and immediate discharge of liability, providing developers with clarity and certainty.

The MRF has the potential to be an effective, strategic, and centralised mechanism for delivering compensation. It simplifies agreements with regulators and stakeholders, streamlines the establishment of compensation measure sites, and standardises monitoring with adaptive management. By designing measures at a landscape or seascape scale, the MRF can deliver greater ecological benefits than fragmented, project-specific actions. Additionally, it supports long-term recovery plans that align with government conservation strategies while reducing complexity for developers, who would otherwise need to design, consent, and monitor bespoke compensation projects. The MRF also minimises duplication, as multiple offshore wind projects often impact the same habitats and species, offering a streamlined, turnkey solution for developers.

Question 47: Are there other points you wish to raise in regard to the MRF that you have not already shared? If so, please use the open text box provided.

Despite areas where our members would seek changes, the clarity provided around the process for DCO applications and the flexibility for projects at different stages to access the MRF is welcomed. This approach helps prevent projects from being 'locked out' due to timing issues and supports smoother integration into the MRF framework.

However, greater attention is needed for non-DCO applications. The current process, while detailed for DCO projects, is not directly transferable to non-DCO circumstances, and the relevant sections of this consultation are brief and underdeveloped. This is a growing area of activity, with more assets entering construction and operation phases in the coming years, many of which may require benthic compensation that must be delivered via the MRF. These projects may need a bespoke process flow, and the proposed fee structure could be disproportionate to their requirements. A more tailored and transparent approach for non-DCO consents should be considered from the outset.

Additionally, more emphasis should be placed on the role of plan promoters, which is currently underrepresented in the consultation. Our members recognise significant potential for the MRF to support a more front-loaded, strategic assessment process at the plan level, helping to de-risk the consenting stage for developers and better align compensation with ecosystem-scale planning.

In relation to paragraph 16 of the consultation paper, we highlight the need for further consideration regarding potential interaction between Defra's MRF and the Nature Recovery Fund (NRF) which will be established through the Planning and Infrastructure Bill, not least to avoid duplication and to prioritise measures for compensation ahead of mitigation (especially given the current framing of Defra's MRF as to be used as a last resort). Our members would not welcome MRF offshore wind compensation measures, which may include activities in coastal terrestrial areas, from being reserved as wider conservation measures in Environmental Delivery Plans (EDP) under the NRF.

There is a need for further consideration regarding potential interaction between the MRF and NRF, not least to avoid duplication and to prioritise measures for compensation ahead of mitigation (as Defra's MRF is only to be used as a last resort). Our members would not welcome potential MRF compensation measures, which may include activities in coastal areas, from being reserved as conservation measures for a regional EDP and the NRF.

Finally, our members would welcome clarity on how payments made to the MRF align with the Offshore Transmission Owner (OFTO) regime, where impacts occur as a result of OFTO assets (e.g., benthic impacts), i.e., are developer payments to the MRF recoverable from the OFTO? We note that this will be a question that needs to be answered in principle in the context of payments to the Scottish MRF as well.