KESKKONNAAMET

ORDER

30 October 2025 No DM-130049-38

Partial grant of environmental permit No KL-524863 to Enefit Green AS

1. DECISION

On the basis of the environmental permit application for special use of water, subsection 2 of § 2, clauses 8 and 10 of § 187 and subsection 1 of § 191 of the Water Act, clause 1 of subsection 1 of § 41, clauses 4 and 6 of subsection 1 of § 52 and § 56 of the General Part of the Environmental Code Act, § 40, § 46, clause 2 of subsection 2 of § 53 and subsection 1 of § 61 of the Administrative Procedure Act, the Environmental Board decides:

1.1. To refuse to grant Enefit Green AS (registry code 11314871, registered address Harju maakond, Tallinn, Kesklinna linnaosa, Lelle tn 22, 11318) an environmental permit for the special use of water for the construction of an offshore wind farm in area TP2-3.

1.2. To grant environmental permit No KL-524863 for the special use of water for the construction of an offshore wind farm in areas TP4 and TP1:

1.2.1. Dredging in the volume of 324,750 m^3, sinking of solid substances in the volume of 191,580 m^3, beneficial placing of dredging spoils in the volume of 324,750 m^3.

1.3. To establish work organisation rules and conditions for environmental permit No KL-524863 to reduce the impact of the special use of water (permit Table V10, V11 and V16), along with monitoring requirements (permit Table V8) and requirements for informing (permit Table V17), as specified in sections 3.6 and 3.7 of the order.

1.4. To impose the following secondary conditions on environmental permit No KL-524863:

1.4.1. The Environmental Board has the right to amend or revoke the environmental permit if, on the basis of the spatial plan and/or the superficies licence, the locations of the offshore wind farms change or the offshore wind farm is not allowed to be built in the area indicated in the environmental permit.

1.4.2. Upon establishing nature conservation areas in Western Hiiumaa, Northern Hiiumaa and/or Northern Shoal, it is permitted to amend or revoke an environmental permit in accordance with the protection rules to be established.

1.4.3. An environmental permit grants the right to the special use of water (dredging,

placement of solids to the seabed below average water level, placement of dredging spoils at the bottom of the sea) and does not replace other necessary permits necessary for encumbering the seabed with an offshore wind farm and/or the construction of wind turbines and/or cables within the wind farm. Special use of water may not be commenced before the relevant permits have been obtained.

1.4.4. The detailed monitoring plan must be submitted to the Environmental Board for coordination half a year before the start of the monitoring work prior to the special use of water, the approved monitoring plan will become a part of the environmental permit and must be used as a basis for monitoring and the submission of monitoring results. If new and additional information is added during the monitoring, it is possible to revise the conditions of the environmental permit and, if necessary, amend the environmental permit based on the results of the monitoring.

1.4.5. In the development area TP4, special use of water is not permitted in the area of the Hiiu Shoal sand deposit overlapping with the Hiiu Shoal sand quarry mining claim. Special use of water is possible provided that a permit for activities affecting the condition and use of the earth's crust has been obtained on the basis of the Earth's Crust Act or the extraction permit granted in an area overlapping with a mining claim has expired and an approval and permit has been obtained for the construction of a renewable energy construction on the mineral deposit area in accordance with clause 3 of subsection 2^1 of § 14 of the Earth's Crust Act.

1.5. Environmental permit No KL-524863 is a part of the order, and environmental permit No KL-524863 and this order form an integral whole.

1.6. The environmental permit is valid for 15 years.

1.7. The order enters into force upon its notification.

2. CIRCUMSTANCES

Application for environmental permit and commencement of proceedings

2.1. Enefit Green AS [1] (also referred to as the *developer*) wishes to establish a wind farm with a capacity of up to 1,100 MW in the coastal waters of North West Estonia for the purpose of generating electricity from renewable energy.

2.2. The plans to establish the North West Estonia offshore wind farm began in 2006 when the only regulation in place was subsection 2 of § 8 of the Water Act [2] (hereinafter *Water Act (previous wording)*), according to which a permit for the special use of water (hereinafter *water permit*) was required for sinking solid substances into a water body, for dredging and for the disposal of dredged soil onto the bottom of a water body. Considering that the construction of an offshore wind farm involves, among other things, special use of water, the developer [3] submitted

an application for a water permit to the Ministry of the Environment [4] on 23 March 2006. The Ministry of the Environment accepted the water permit application for processing by letter No 11-17/3873-2 dated 5 May 2006 and also initiated an environmental impact assessment (hereinafter *EIA*) (see section 3.1). Pursuant to subsection 11 of § 11 of the Environmental Impact Assessment and Environmental Management System Act [5] (hereinafter *Environmental Impact Assessment and Environmental Management System Act (previous wording)*), the water permit application procedure had been suspended until the approval of the EIA report.

Environmental permit procedure

2.3. The Ministry of Climate approved the 'Environmental Impact Assessment Report for the North West Estonia Offshore Wind Farm' (hereinafter *EIA Report for the North West Estonia Wind Farm* or *EIA report*) [6] with letter No 7-12/23/3224-23 dated 29 December 2023 'Approval of the Environmental Impact Assessment Report for the North West Estonia Offshore Wind Farm' (hereinafter decision on approval of the EIA report for the North West Estonia Wind Farm).

2.4. Pursuant to subsection 8 of § 279 of the valid Water Act [7] (hereinafter *Water Act*), the processing of applications for permits for the special use of water accepted for processing before the entry into force of the Water Act on 1 October 2019 will continue pursuant to the procedural provisions which were in force at the time when the applications were accepted for processing. Following the above, the application accepted for processing on 23 March 2006 will be processed in accordance with the Administrative Procedure Act and the procedural laws of the Water Act (previous wording) in force in 2006. For the provision of substantive law, the valid Water Act and its subordinate legislation are followed, including in the establishment of permit requirements and the granting or refusal of permits.

2.5. Pursuant to subsection 2 of § 2, subsection 1 of § 191 and clauses 8 and 10 of § 187 of the Water Act and clause 1 of subsection 1 and subsection 5 of § 41 of *the General Part of the Environmental Code Act*, as of 1 October 2019, an environmental permit for special use of water (hereinafter *environmental permit*) is issued for dredging and placing of solid substances, with the issuer of the permit being the Environmental Board. Therefore, in this case, the environmental permit for special use of water is issued by the Environmental Board. As of 1 January 2020, all environmental permits are issued electronically via the environmental decisions information system (hereinafter *KOTKAS*) in a digitally signed format [8].

2.6. On the basis of the foregoing, the Environmental Board requested in their letter dated 2 January 2024 [9] that an amended application and additional information [10] be submitted via the KOTKAS database so that the Environmental Board, as the issuer of the permit, could ensure that the environmental permit to be issued complies with applicable law. The deadline for supplementing the application was set at 2 January 2027, taking into consideration the potential time required for processing and establishing the national designated spatial plan (hereinafter *NDSP*). At the same time, a request was made to submit an opinion on the application to initiate creation of the NDSP by 1 April 2024 at the latest. The deadline for making a decision on granting or refusing the environmental permit was suspended until the deadline for submitting additional information (subsection 2 of § 15 of the Administrative Procedure Act in conjunction with

subsection 7 of § 9 of the Water Act (previous wording)).

2.7. In a letter dated 26 March 2024 [11], Enefit Green AS explained that, while the company intends to submit an application to initiate creation of the spatial plan in the maritime area of North West Estonia, it cannot form its opinion on the application until the entry into force of draft legislation No 308 SE on acceleration of introduction of renewable energy, and requested that the deadline for submitting its opinion on the application to initiate creation of the NDSP be extended until 1 September 2024. In accordance with the request, the Environmental Board extended the deadline for responding in its letter dated 3 April 2024 [12].

2.8. No additional information was provided by the deadline and no request was made to extend the deadline for submitting additional information. In its letter dated 11 September 2024 [13], Enefit Green AS requested clarification on what data must be submitted with the KOTKAS application in order to make the changes and continue with the process for issuing the environmental permit. The Environmental Board specified in its letter dated 26 September 2024 [14] the data which must be submitted via KOTKAS. In addition, information was once again requested regarding the application to initiate creation of the NDSP, and it was pointed out that, according to legislative amendments that entered into force on 21 June 2024, the developer would be able to submit an application to the Consumer Protection and Technical Regulatory Authority (hereinafter *CPTRA*) for the application of provisions of the Building Code concerning offshore wind farm superficies licences. The offshore wind farm superficies licence would also grant the right to the special use of water, thus the developer would no longer need a separate environmental permit. The deadline for submitting additional information was set at 26 October 2024.

2.9. On 28 October 2024, the developer submitted an amended application via KOTKAS [15]. In addition, the developer explained in its letter dated 25 October 2024 [16] that a legal analysis had been commissioned regarding the necessity of applying to initiate creation of the NDSP, which was to be completed on 31 March 2025. It was emphasised that, at present, a transition to an offshore wind farm superficies licence procedure is not considered possible, but once greater legal certainty has been established regarding the NDSP, this option will be considered.

2.10. The Environmental Board reviewed the application submitted via KOTKAS and requested in its letter dated 7 November 2024 [17] that the application be supplemented by 2 January 2027 at the latest and that an opinion on the application to initiate creation of the NDSP be submitted by 31 January 2025 at the latest.

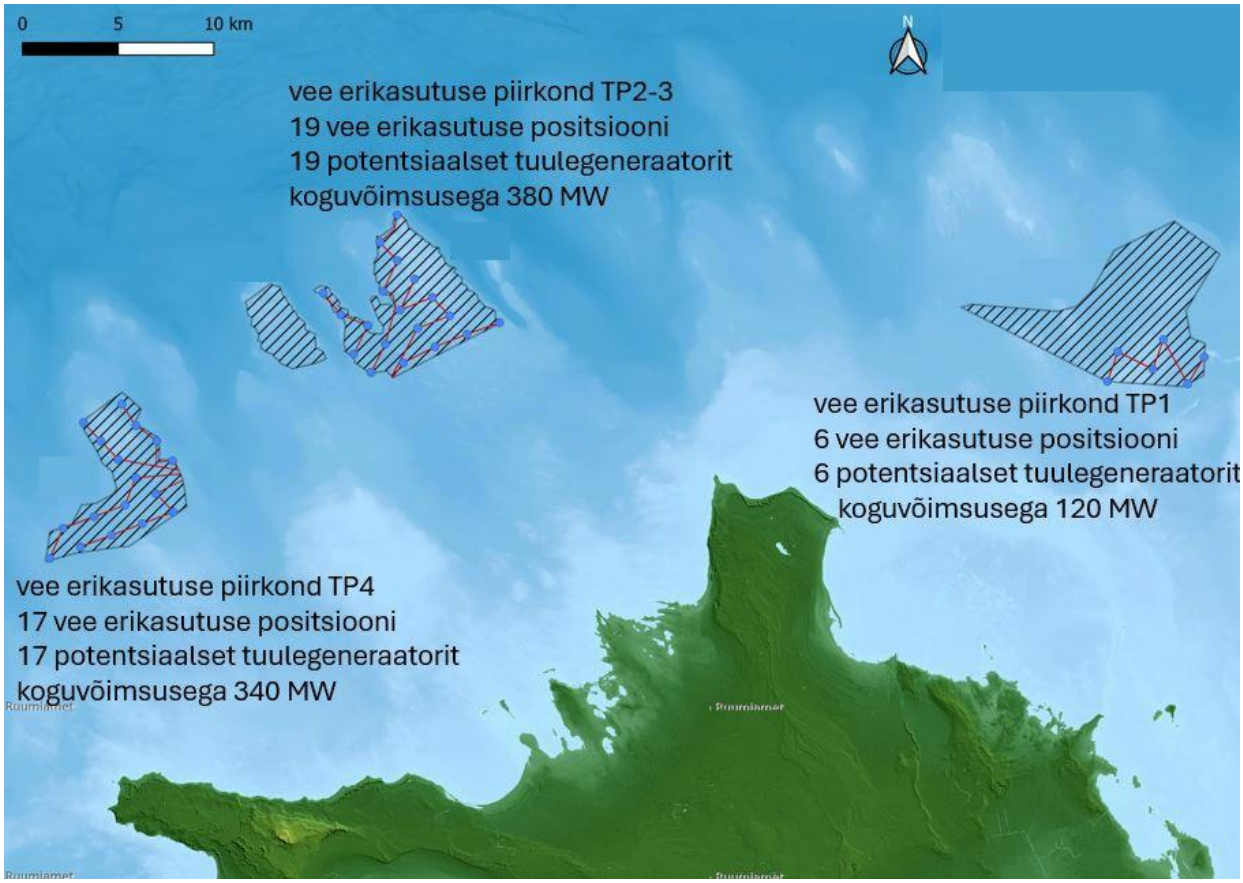
2.11. In its letter dated 31 January 2025 [18], Enefit Green AS explained that, according to the EIA report, the construction of an offshore wind farm is possible in three separate areas in North West Estonia, which are located at a considerable distance from each other. The commissioning of areas for offshore wind power generation can be carried out in stages. The construction of wind turbines in one area is possible without commissioning other areas or carrying out construction on them and can be carried out technically independently. In each area, it is possible to build a wind farm that is technically independent from the others and each one can even have different ownership. Therefore, the creation of an additional NDSP for the area is neither justified nor required, as according to subsection 2 of § 27 of the Planning Act, an NDSP must be created for

the territory of Estonia or a part thereof in order to construct a wind power station whose nominal electricity generation capacity equals or exceeds 400 megawatts, provided the construction work in question elicits the significant national or international interest specified in subsection 1 of § 27 of the Planning Act. On the basis of the foregoing, Enefit Green AS requested that the environmental permit procedure be continued and that an environmental permit be issued to Enefit Green AS on the basis of the approved EIA report and the information provided in the environmental permit application transferred to the KOTKAS system.

2.12. On 31 March 2025, the developer submitted an amended environmental permit application. The application was registered in the KOTKAS system under procedure No M-130049 as application No T-KL/1026040-2. According to the application, dredging, sinking of solid substances and placing of dredging spoils onto the seabed (hereinafter ***special use of water work***) are planned for the purpose of establishing an offshore wind farm. More specifically, they wish to carry out dredging of the sea in preparing the base for potential wind turbines and potential cable routes, and to carry out placing of solid substances when laying the foundations for potential wind turbines and cables within potential wind farms. Dredging spoils are placed onto the seabed: dredging spoils are used for beneficial placement, either as fill for a gravity base foundation or cable trench (*beneficial placing of dredging spoils* ***[19]***). The volumes of special use of water work and the purpose of special use of water are presented in Table 1. The environmental permit application does not cover the special use of water required for the installation of export cables. The application is based on Alternative 4 presented in the EIA Report for the North West Estonia Wind Farm and its approval decision: the special use of water takes place in three areas TP1, TP2-3 and TP4 (hereinafter also referred to as the ***special use of water area*** or ***development area***). The special use of water areas and specific locations of special use of water work (hereinafter ***special use of water locations***) are shown in Figure 1. In addition, according to the application, the three development areas – TP1, TP2-3 and TP4, should hereafter be considered as separate production units, each with a capacity of up to 400 MW, given that 20 MW wind turbines are planned to be installed in the area.

Table 1. Planned special use of water work, purpose and volume of the work by special use areas TP1, TP2-3 and TP4.

purpose of special use of water	preparation of potential foundation bases	construction of potential foundations	potential foundation fill	preparation of potential cable routes	installation of potential cables	number of potential foundations
special use of water work	**dredging**	**placement of solids**	**beneficial placement of dredging spoils**	**dredging**	**placement of solids**	**number of special use of water locations**
special use of water area **TP1**	60,000 m³	48,000 m³	60,000 m³	24,250 m³	1,940 m³	6
special use of water area **TP2-3**	190,000 m³	152,000 m³	190,000 m³	79,500 m³	6,360 m³	19
special use of water area **TP4**	170,000 m³	136,000 m³	170,000 m³	70,500 m³	5,640 m³	17



special use of water area TP2-3
19 special use of water locations
19 potential wind turbines
with a total capacity of 380 MW

special use of water area TP4
17 special use of water locations
17 potential wind turbines
with a total capacity of 340 MW

special use of water area TP1
6 special use of water locations
6 potential wind turbines
with a total capacity of 120 MW

Figure 1. Special use of water areas TP1, TP2-3 and TP4. The blue dots and red lines indicate the locations of special use of water work, which overlap with the locations of potential wind turbines and cables within the wind farm, respectively.

2.13. In its letter dated 15 April 2025 [20], the Environmental Board notified the applicant and the persons concerned of the continuation of the environmental permit procedure. The decision to grant or refuse to grant an environmental permit must be communicated to the applicant within three months of the application being accepted for processing (subsection 7 of § 9 of the Water Act (previous wording)). Pursuant to subsection 3 of § 9^1 of the Water Act (previous wording), every person has the right to submit written proposals and objections concerning applications for permits for the special use of water to the issuing authority during the processing time. The

deadline for submitting proposals and objections was set at 15 May 2025.

2.14. In its letter dated 19 May 2025 [21], the Environmental Board requested the opinion of the Geological Survey of Estonia, as the competent authority in geological matters, on the planned special use of water in the Hiiu Shoal sand deposit area (clause 1 of subsection 1 of § 15 of the Earth's Crust Act). The Geological Survey of Estonia submitted its opinion by letter dated 16 July 2025 [22] (see section 3.4.10.4).

2.15. The Environmental Board informed the developer in a letter dated 21 May 2025 [23] that, considering the proposals submitted regarding the application (see section 2.16) and coordination deadline from the Geological Survey of Estonia (see section 2.14), a decision to grant or refuse to grant an environmental permit would be made as soon as possible, but no later than 29 August 2025 (§ 41 of the Administrative Procedure Act).

Proposals and objections to the amended application

2.16. Proposals and objections to the application were submitted by the Estonian Ornithological Society [25] (hereinafter *EOS*) and the Estonian Fund for Nature (hereinafter *EFN*) [26] in a letter dated 7 May 2025 [24], the Ministry of Economic Affairs and Communications (hereinafter *MEAC*) in a letter dated 9 May 2025 [27], the National Heritage Board in a letter dated 14 May 2025 [28], Hiiu Tuul MTÜ in a letter dated 16 May 2025 [29] and the CPTRA in a letter dated 16 May 2025 [30]. In its letter dated 15 May 2025 [31], the Police and Border Guard Board stated that it had no proposals or objections to the amended application in procedure M-130049. The Ministry of Defence had no proposals or objections either (letter dated 28 May 2025 [32]).

Proposals and objections of the EOS and EFN

2.17. In their letter dated 7 May 2025, the EOS and EFN pointed out that the proposals for the formation of protection zones [33] and Important Bird and Biodiversity Areas (*IBAs*) must be taken into account in the environmental permit procedure.

The Environmental Board would like to clarify that both the proposals for the formation of protection zones and IBAs are taken into account when granting the environmental permit (see sections 3.2.4, 3.4.8 and 3.5.5–3.5.9).

2.18. The EOS and EFN pointed out that the EIA Report on the North West Estonia Wind Farm is incomplete in terms of wild birds. There are no migration studies, outdated data on the long-tailed duck has been used, data from the 2021 nationwide study has not been used, the risk of displacement for the scoters and common eiders has not been quantitatively assessed, the study cited as an example for the long-tailed duck did not prove the absence of a displacement effect, the barrier effect on breeding species was not analysed, other wind farms have not been taken into account in the analysis of flight length, the flight altitude of bird flocks (black geese, loons etc) flying at the altitude of rotors has not been taken into account in the collision risk assessment. It is emphasised that without migration studies, it is impossible to determine the spatial distribution of migration. However, it has already been ascertained that the eastern part of TP1 and TP2-3 are

unsuitable for development as an IBA.

The Environmental Board stresses that the environmental permit is issued for the special use of water – dredging and placing of solid substances, ie activities that take place below mean sea level (see section 3.2.1). The environmental permit does not grant the right to construct or operate an offshore wind farm. Although special use of water is closely linked to construction in water, it is not possible to carry out any work solely on the basis of an environmental permit. On the basis of the above, the installation of wind turbine towers and the operation of turbines are not related to the special use of water and are therefore not an object of the environmental permit. In view of the foregoing, circumstances related to wild birds are discussed in section 3.4.4.

Pursuant to subsection 1 of § 24 of the Environmental Impact Assessment and Environmental Management System Act (previous wording) and clause 2 on page 1 of the decision on approval of the EIA report for the North West Estonia Wind Farm, the environmental measures set out in the EIA report must be taken into account when implementing the planned activity, including the mitigation measures set out in section 10 and the monitoring measures set out in section 11 of the EIA report. Section 11.1.3 of the EIA report stipulated the need for relevant studies, which must be taken into account in the following stages.

2.19. The EOS and EFN found that the EIA Report for the North West Estonia Wind Farm is incomplete with regard to marine mammals and that additional studies are needed to make a decision. It is clear that the wind farm will adversely affect the habitat of seals in certain parts of the development area (TP1), but measurements are needed to determine the impact and the spatial scope of the impacts. With regard to seals, it is difficult to assess the impact of the operating wind farm and its maintenance work without conducting studies.

The Environmental Board emphasises that the environmental permit is granted for the special use of water. In view of the foregoing, circumstances related to marine mammals are discussed in section 3.4.6. Section 11.1.5 of the EIA report laid down the need for relevant studies (subsection 1 of § 24 of the Environmental Impact Assessment and Environmental Management System Act (previous wording) and section 2 on page 1 of the decision on approval of the EIA report for the North West Estonia Wind Farm), which must be taken into account both in the implementation of the special use of water (see sections 3.6.17–3.6.20, 3.7.15) and in subsequent stages.

2.20. The EOS and EFN found that the EIA Report for the North West Estonia Wind Farm is incomplete with regard to bats and that additional studies are needed to make a decision.

The Environmental Board emphasises that the environmental permit is granted for the special use of water. In view of the foregoing, circumstances related to bats are discussed in section 3.4.5. Section 11.1.4 of the EIA report laid down the need for relevant studies (subsection 1 of § 24 of the Environmental Impact Assessment and Environmental Management System Act (previous wording) and section 2 on page 1 of the decision on approval of the EIA report for the North West Estonia Wind Farm), which must be taken into account in subsequent stages.

2.21. The EOS and EFN found that significant procedural errors had been made in the EIA

process for the North West Estonia Wind Farm – the report was not published prior to its approval, although several studies were conducted and the offshore wind farm solution was refined after the publication in 2019.

As the EIA supervisor, the Ministry of Climate has analysed the organisation of the publication of the EIA Report for the North West Estonia Wind Farm in section 3 of the decision on approval of the EIA report on the North West Estonia Wind Farm and found that there are no circumstances that would justify non-approval of the EIA report. Subsection 3.3 of the decision on approval of the EIA report for the North West Estonia Wind Farm states, among other things, that the EIA report had already been made public three times and that the report supplemented after the last publication had not been significantly amended, as a result of which the Ministry of Climate considered that additional publication of the report submitted for approval was not strictly required or proportionate, thus its publication was not necessary.

The Environmental Board has involved interested parties in environmental permit procedure, which allows them to submit proposals and objections during the procedure, including those concerning the special use of water discussed in the EIA report.

2.22. The EOS and EFN proposed in their letter that the environmental permit procedure be terminated.

The Environmental Board explains that there are currently no grounds for terminating the procedure of application for an environmental permit. The Environmental Board has already explained in its decision on challenge of 23 February 2024 [34] that an application may only be refused for review and the environmental permit application procedure terminated in cases provided for by law. The Environmental Board was of the opinion that there were **no legal grounds for terminating the procedure of application for an environmental permit. The procedure of application for an environmental permit is concluded either with the granting of an environmental permit or with a refusal to grant the environmental permit.** The circumstances have not changed and the Environmental Board will not repeat its explanations.

Proposals and objections of the MEAC

2.23. In its letter dated 9 May 2025, the MEAC pointed out that, regardless of their size, offshore wind farms are construction works with a significant spatial impact, the location and operation of which are generally of great national or international interest, and therefore the principle that wind energy development areas are determined by a spatial plan must be followed. Therefore, it is also not possible to construct smaller wind farms with separate production units of less than 400 MW in the maritime area bordering Hiiu County without a spatial plan. What is important here is not only the total capacity of the wind farm, but also the lack of planning conditions specifying where and under what conditions wind farms can be planned.
The Environmental Board explains that the environmental permit is issued for the special use of water. Legislation does not stipulate the existence of a national designated spatial plan as a prerequisite for granting an environmental permit (see sections 3.2.2.2 and 3.2.2.5). In the subsequent stages of establishing the spatial plan, it is possible to amend the environmental permit (see section 1.4.1).

Proposals and objections of the National Heritage Board

2.24. In its letter dated 14 May 2025, the National Heritage Board stated that the environmental permit should include an obligation to conduct an underwater archaeological survey and that the results of the survey should be taken into account when organising the work. The Environmental Board explains that the need for a cultural monument survey is outlined in section 11.1.6 of the EIA report for the North West Estonia Wind Farm. In accordance with the letter from the National Heritage Board, the Environmental Board specified the description of the need for a survey in sections 3.7.12–3.7.14.

Proposals and objections of Hiiu Tuul MTÜ

2.25. In its letter dated 16 May 2025, Hiiu Tuul MTÜ [35] pointed out that the EIA report for the North West Estonia Wind Farm underestimates the amount of phosphorus that will be released when sea sediments are moved during the planned construction work. The letter provides explanations based on calculations of the mobile phosphorus content in sediments at the mouth of the Gulf of Finland [36], [37].

The Environmental Board explains that the TP1, TP2-3 and TP4 development areas are located on the banks of the Gulf of Finland, which are areas of sediment transport where the mobile phosphorus content is significantly lower than at the mouth of the Gulf. The Environmental Board discusses the load that may accompany special use of water in section 3.4.1.4.

Proposals and objections of the CPTRA

2.26. In its letter dated 16 May 2025, the CPTRA pointed out that the total capacity of the three offshore wind farms is up to 1,200 MW and that the construction of an offshore wind farm is an activity with a significant spatial impact, which means that, pursuant to subsection 2 of § 27 of the Planning Act, the creation of an NDSP is obligatory. The CPTRA will continue the procedure on the application for a superficies licence for the North West Estonia offshore wind farm following the decision of the Environmental Board in the current environmental permit procedure.

The Environmental Board emphasises that the environmental permit is granted for the special use of water. The absence of a national designated spatial plan or superficies licence is not grounds for refusal to grant an environmental permit (see sections 3.2.2.2, 3.2.2.5 and 3.2.3.2). An environmental permit does not replace other permits required for the construction of an offshore wind farm (see sections 3.2.1.2, 3.2.3.1 and 3.2.3.3). The Environmental Board takes this into account when imposing secondary conditions (see section 1.4.3). Therefore, the decision of the Environmental Board only provides the CPTRA with information regarding the permissibility of special use of water at this time. Any questions related to the establishment and use of the offshore wind farm must be resolved in subsequent stages.

Publication of the proposed decision on the granting of environmental permit and notification of the parties to the procedure

2.27. In its letter dated 4 August 2025 [38], the Environmental Board submitted a proposed decision on the granting of an environmental permit in part to the parties to the procedure for their opinion (hereinafter *proposed decision of 4 August 2025*) (subsection 1 of § 40 of the Administrative Procedure Act). The Environmental Board announced the completion of the proposed decision of 4 August 2025 in the official publication *Ametlikud Teadaanded*. Proposals and objections to the proposed decision were submitted by the EOS and EFN in a letter dated 25 August 2025 [39], AS TALLINNA SADAM [41] in a letter dated 22 August 2025 [40], the MEAC in a letter dated 25 August 2025 [42], Enefit Green AS in a letter dated 25 August 2025 [43], Hiiu Tuul MTÜ in a letter dated 25 August 2025 [44] and the CPTRA in a letter dated 25 August 2025 [45]. The Ministry of Climate sent the draft of the proposals and objections by email dated 25 August 2025 and explained that an official letter would be sent in the coming days; the proposals were sent by letter dated 28 August 2025 [46]. The Health Board [47] and the Police and Border Guard Board [48] had no proposals or objections to the proposed decision of 4 August 2025. The proposals submitted are discussed in section 3.9.

2.28. The Environmental Board informed the developer in a letter dated 28 August 2025 [49] that, taking into account the proposals submitted to the proposed decision (see section 2.27), the company's proposal to change the special use of water locations in the development area TP2-3, and the proposal to hold a public session, a decision to grant or refuse to grant the environmental permit would be made at the earliest opportunity, but no later than 31 October 2025 (§ 41 of the Administrative Procedure Act).

2.29. Based on a proposal from Hiiu Tuul MTÜ, the Environmental Board notified all parties to the procedure of the public session in a letter dated 1 October 2025 [50]. The proposals submitted were attached to the notification, together with explanations from the Environmental Board (hereinafter *table of responses*). The public session was held via MS Teams on 16 October 2025, starting at 15:00. The minutes of the public session are available via KOTKAS under letter No DM-130049-36 (hereinafter *minutes of the public session*). The new proposals made at the public session are discussed in section 3.10. At the public session, the developer proposed, among other things, to suspend the environmental permit procedure for area TP2-3, for which it will submit written reasons to the Environmental Board by 24 October 2025 at the latest.

2.30. The developer submitted a request for partial suspension of the environmental permit procedure in its letter dated 21 October 2025 [51]. The relevant circumstances are discussed in section 3.11.

[1] Registry code 11184032, registered address Harju maakond, Tallinn, Kesklinna linnaosa, Lelle tn 22, 11318.
[2] Water Act RT I 1994, 40, 655, wording in force from 1 January 2006 to 30 June 2006. Available at: https://www.riigiteataja.ee/akt/970659 (16 July 2025).
[3] Prior to Enefit Green AS, Nelja Energia AS acted as the developer until December 2018.
[4] As of 1 July 2023, the Ministry of Climate.
[5] Pursuant to subsection 11 of § 56 of the valid Environmental Impact Assessment and Environmental Management System Act, the wording of the Environmental Impact Assessment and Environmental Management System Act in force at the time of initiation of EIA applies to an

application for development consent that sets out an activity with regard to which EIA has been initiated before the entry into force of this provision (ie 13 July 2017) (Environmental Impact Assessment and Environmental Management System Act, RT I 2005, 15, 87). Available at: https://www.riigiteataja.ee/akt/KeHJS (16 July 2025).

[6] Skepast&Puhkim OÜ, 2023. Loode-Eesti rannikumere tuulepargi keskkonnamõju hindamise aruanne. Töö nr 2013_0056, 2023. Available at: https://kliimaministeerium.ee/loode-eesti-rannikumere-tuulepargi-keskkonnamoju-hindamine (16 July 2025).

[7] Water Act RT I 15.04.2025, 7, wording in force from 1 July 2025 to 31 August 2025. Available at: https://www.riigiteataja.ee/akt/115042025007?leiaKehtiv (16 July 2025).

[8] Subsection 1 of § 1 and subsection 4 of § 2 of Regulation No 56 of the Minister of the Environment of 23 October 2019 'Detailed requirements for applications for an environmental permit and the procedure for granting an environmental permit and the datasets for applications for an environmental permit and for environmental permits'. Available at: https://www.riigiteataja.ee/akt/125102019001?leiaKehtiv
(16 July 2025).

[9] Registered in the document management system of the Environmental Board on 2 January 2024 under No 14-6/24/1.

[10] Information specified in § 53 of the General Part of the Environmental Code Act, § 193 of the Water Act^{2019} and Regulation No 56 of the Minister of the Environment 'Detailed requirements for applications for an environmental permit and the procedure for granting an environmental permit and the datasets for applications for an environmental permit and for environmental permits'. When supplementing the application, we asked the results of the EIA Report for the North West Estonia Wind Farm and the decision on approval of the EIA report to be taken into account.

[11] Registered in the document management system of the Environmental Board on 26 March 2024 under No 14-6/24/1-2.

[12] Registered in the document management system of the Environmental Board on 3 April 2024 under No 14-6/24/1-3.

[13] Registered in the document management system of the Environmental Board on 16 September 2024 under No 14-6/24/1-4.

[14] Registered in the document management system of the Environmental Board on 26 September 2024 under No 14-6/24/1-5.

[15] The application was registered in the environmental decisions information system (KOTKAS) on 28 October 2024 as application No T-KL/1026040 under procedure No M-130049.

[16] Registered in the document management system of the Environmental Board on 28 October 2024 under No 14-6/24/1-8.

[17] Registered in the KOTKAS system on 7 November 2024 under letter No DM-130049-2.

[18] Registered in the KOTKAS system on 3 February 2025 under letter No DM-130049-3.

[19] According to the HELCOM dredging and dumping guidelines (https://helcom.fi/wp-content/uploads/2024/03/HELCOM-Guidelines-for-Management-of-Dredged-Material-at-Sea.pdf), this is a special case of dumping where beneficial use of dredging spoils takes place (clauses 8 and 11 of § 187 of the Water Act, clause 7.2.2 of the HELCOM dredging and dumping guidelines).

[20] Registered in the KOTKAS system on 15 April 2025 under letter No DM-130049-8.

[21] Registered in the KOTKAS system on 19 May 2025 under letter No DM-130049-17.

[22] Registered in the KOTKAS system on 17 July 2025 under letter No DM-130049-21.
[23] Registered in the KOTKAS system on 21 May 2025 under letter No DM-130049-19.
[24] Registered in the KOTKAS system on 8 May 2025 under letter No DM-130049-10.
[25] Registry code 80041898, registered address Tartu maakond, Tartu linn, Veski tn 4, 51005.
[26] Registry code 90001457, registered address Tartu maakond, Tartu linn, Staadioni tn 67, 51008.
[27] Registered in the KOTKAS system on 9 May 2025 under letter No DM-130049-11.
[28] Registered in the KOTKAS system on 15 May 2025 under letter No DM-130049-13.
[29] Registered in the KOTKAS system on 16 May 2025 under letter No DM-130049-16.
[30] Registered in the KOTKAS system on 20 May 2025 under letter No DM-130049-18.
[31] Registered in the KOTKAS system on 16 May 2025 under letter No DM-130049-14.
[32] Registered in the KOTKAS system on 29 May 2025 under letter No DM-130049-20.
[33] Registered in the document management system of the Ministry of Climate under No 8-2/23/2442 and 8-2/23/2442-3.
[34] Registered in the document management system of the Environmental Board on 23 February 2024 under No 1-7/24/16-3.
[35] Registry code 8038983, registered address Heltermaa mnt 6, Kärdla, Hiiumaa.
[36] Liira, M., Ausmeel, M., Suuroja, S., Veski, A. ja Tuuling, I., 2022. Projekt 17065 „Setete keskkonnaseisundi hindamise metoodika arendamine ja rakendamine“ lõpparuanne. Eesti Geoloogiateenistus. Available at: https://fond.egt.ee/fond/egf/9598 (16 July 2025).
[37] Ausmeel, M., 2022. Fosfori esinemisvormid Läänemere põhjasetetes. Magistritöö. TARTU ÜLIKOOL, Loodus- ja täppisteaduste valdkond, Ökoloogia ja maateaduste instituut, Geoloogia osakond. Available at: http://hdl.handle.net/10062/82220 (16.07.2025).
[38] Registered in the KOTKAS system on 4 August 2025 under letter No DM-130049-22.
[39] Registered in the KOTKAS system on 25 August 2025 under letter No DM-130049-25.
[40] Registered in the KOTKAS system on 27 August 2025 under letter No DM-130049-26.
[41] Registry code 10137319, registered address Harju maakond, Tallinn, Kesklinna linnaosa, Sadama tn 25, 15051.
[42] Registered in the KOTKAS system on 27 August 2025 under letter No DM-130049-29.
[43] Registered in the KOTKAS system on 27 August 2025 under letter No DM-130049-28.
[44] Registered in the KOTKAS system on 27 August 2025 under letter No DM-130049-27.
[45] Registered in the KOTKAS system on 2 September 2025 under letter No DM-130049-32.
[46] Registered in the KOTKAS system on 28 August 2025 under letter No DM-130049-30.
[47] Registered in the KOTKAS system on 6 August 2025 under letter No DM-130049-23.
[48] Registered in the KOTKAS system on 8 August 2025 under letter No DM-130049-24.
[49] Registered in the KOTKAS system on 28 August 2025 under letter No DM-130049-31.
[50] Registered in the KOTKAS system on 1 October 2025 under letter No DM-130049-35.
[51] Registered in the KOTKAS system on 21 October 2025 under letter No DM-130049-37.

3. CONSIDERATIONS

3.1. Deciding on the necessity of an environmental impact assessment

3.1.1. Environmental impact is assessed when applying for development consent or for the amendment of development consent whereby the proposed activity which is the reason for applying for the development consent or for the amendment of the development consent potentially results in significant environmental impact (subsection 1 of § 3 of the Environmental Impact Assessment and Environmental Management System Act (previous wording)).

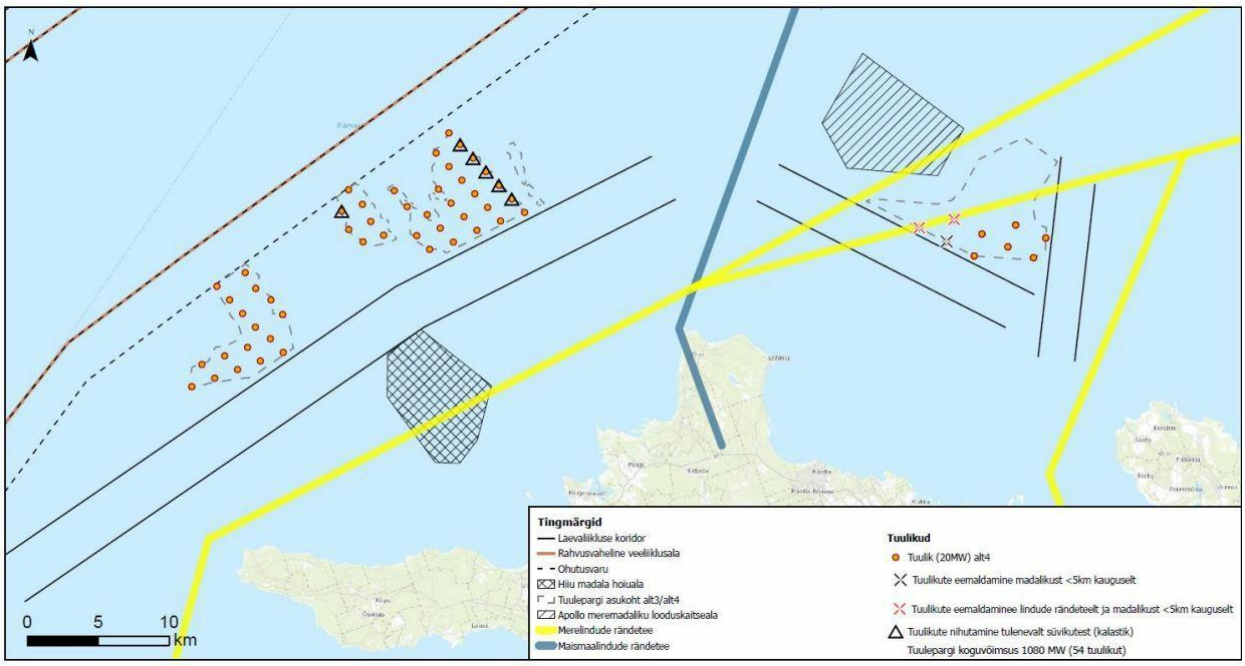
3.1.2. The planned activity – installation of a wind farm in a water body – constitutes an activity with significant environmental impacts within the meaning of the Environmental Impact Assessment and Environmental Management System Act (previous wording), therefore the EIA was initiated without providing the reasons therefor (clause 5 of subsection 1 of § 6, subsection 3 of § 11 of Environmental Impact Assessment and Environmental Management System Act (previous wording)).

3.1.3. The Ministry of Climate initiated the EIA when accepting the application for processing in 2006 (see section 2.2). As part of the EIA process, publication was carried out, including cross-border involvement, during which Finland expressed its desire to participate in the EIA process (Sweden did not wish to participate). Public displays of the EIA report took place in Estonia in 2011, 2017 and 2019. Estonia (the Ministry of the Environment) also forwarded the EIA report materials to Finland in 2011, 2017 and 2019. The opinions submitted during the publication process (including those received from Finland) were analysed in the preparation of the EIA report and have been taken into account as appropriate or have been reasonably rejected. The Ministry of Climate approved the EIA Report for the North West Estonia Wind Farm in its letter No 7-12/23/3224-23 dated 29 December 2023 (see section 2.3).

3.1.4. The EIA Report for the North West Estonia Wind Farm was prepared as a part of the environmental permit procedure, but the report also addressed the wider purpose of the special use of water – the construction of an offshore wind farm. According to the EIA Report for the North West Estonia Wind Farm, the construction of an offshore wind farm, like any other human occupation of maritime areas, will have negative impacts on the marine environment, marine biota and human well-being. It is not possible to design a wind farm in a way that completely avoids negative impacts. However, it is important to ensure that serious and irreversible consequences exceeding the carrying capacity of species populations are excluded and negative impacts are reduced as much as possible. The EIA report did not identify any serious or irreversible consequences exceeding the carrying capacity of species populations or any significant cross-border impacts resulting from the special use of water. The EIA report presented the preferred alternatives, relevant mitigation measures (section 10 of the EIA report) and monitoring proposals (section 11 of the EIA report). **The EIA Report for the North West Estonia Wind Farm is sufficient for making a decision on the granting of the environmental permit** (see also section 6 of decision on approval of the EIA report). The areas proposed for the establishment of a nature reserve (see section 3.2.4) were not addressed in the EIA report, but the need for further detailed

studies on wild birds, marine mammals and bats was highlighted. Additional studies are necessary for the planning of wind turbines. Pursuant to § 11 of the Environmental Impact Assessment and Environmental Management System Act, when processing applications for other activity licences (superficies licence, building permit), the decision-makers must reassess the necessity of an EIA, ie whether the EIA prepared is still sufficient for these permits, and, based on that assessment, make a decision on the necessity of an EIA.

3.1.5. In its decision to approve the EIA Report for the North West Estonia Wind Farm, the Ministry of Climate imposed the following environmental requirements: when constructing the wind farm, preference should be given to the ranking of alternatives presented in section 9 of the EIA report [1], ie alternative 4 for wind turbines [2] and alternative 3 for submarine cables; when implementing the planned activities, the environmental measures set out in the EIA report must be taken into account, including the mitigation measures set out in section 10 and the monitoring measures set out in section 11; based on the results of pre-construction, construction-phase and in-service studies and monitoring of the wind farm, mitigation measures must be updated as necessary. Pursuant to subsection 1 of § 24 of the Environmental Impact Assessment and Environmental Management System Act (previous wording), upon making a decision to grant or refuse to grant development consent, the decision-maker (issuer of the development consent) must take into account the results of the EIA and the environmental requirements contained in the report.



Symbols

- vessel traffic corridor
- international waterway area
- safety margin
- Hiiu Shoal limited-conservation area
- Wind farm location alt3/alt4
- Apollo Shoal nature conservation area
- migratory path of seabirds
- migratory path of terrestrial birds

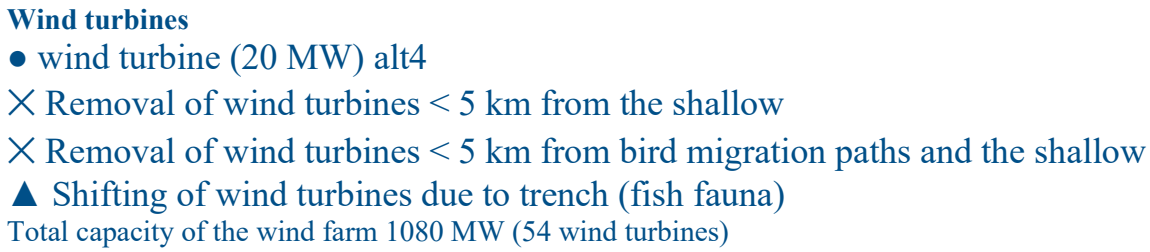


Figure 2. Alternative 4 of the North West Estonia Offshore Wind Farm EIA report, together with the necessary mitigation measures (figure 1 of the EIA report).

3.1.6. The development areas presented in the amended application (see Figure 1) correspond to the development areas addressed in Alternative 4 of the EIA Report for the North West Estonia Wind Farm (see Figure 2). **However, the application excludes the construction of wind turbines in area TP3, ensuring that the total capacity of area TP2-3 does not exceed 400 MW.** According to the application, the special use of water is planned in a volume that is necessary for the construction of wind turbines with a capacity of 20 MW in the offshore wind farms. In addition, the special use of water locations (including the locations of wind turbines and cables) follow the guidelines set out in the EIA report regarding the layout of civil engineering works. Therefore, the activity described in the application is in accordance with the environmental requirements of the decision on approval of the EIA report for the North West Estonia Wind Farm and Alternative 4 analysed in the EIA report. **Accordingly, in this order, the Environmental Board only considers the activities described in the application** and does not consider other alternatives (ie alternatives with lower-capacity wind turbines, different foundations or other potential differences).

3.1.7. In making the decision to grant the permit, the findings of the EIA report were taken into consideration, including the objections submitted to the EIA report and the results of cross-border consultations. Where the results were not taken into account, the reasons for it have been provided (subsection 2 of § 24 of the Environmental Impact Assessment and Environmental Management System Act (previous wording)).

3.2. Initial positions

3.2.1. *Right to the special use of water*

3.2.1.1. The developer has not opted to use the possibility of transitioning to an offshore wind farm superficies licence procedure (subsection 1^2 of § 113^1 of the Building Code, subsection 2 of § 25^4 of An Act to Implement the Building Code and the Planning Act), which as a combined permit would also include a building permit and environmental permit for special use of water (subsection 1^3 of § 113^1 of the Building Code). **The environmental permit grants the right solely for the special use of water. In this case, the special use of water involves dredging, placing of solid substances below mean sea level and placing of dredging spoils onto the bottom of a water body.** The special use of water has no purpose in its own right without the construction of a potential new wind farm. An environmental permit does not grant the right to

use the maritime area or to construct a wind farm therein for the purpose of producing wind energy. The right to use the maritime area is granted by a superficies licence (developer submitted an application for a superficies licence in 2010) and the right to build is granted by a building permit (subsection 1 of § 38 of the Building Code). The issuance of both the superficies licence and the building permit is conditional on the existence of a relevant spatial plan (clause 1 of § 44, clauses 2 and 4 of subsection 2 of § 113^{11} of the Building Code).

3.2.1.2. **The environmental permit does not replace other permits required by law for the construction of the wind farm.** Tallinn Court of Appeal, in its judgment No 2-3/271/05 of 18 January 2005, explains that although an environmental permit grants a subjective right to the special use of water, a person must also comply with other legislation when carrying out activities related to the special use of water. This principle has also been affirmed by the Supreme Court of Estonia in its judgment 3-3-1-31-16, section 14, in the context of mining activities. Therefore, **work permitted under the environmental permit may not be commenced on the basis of the environmental permit alone. First, a superficies licence for the use of the maritime area and a building permit for construction must be obtained. Relevant secondary conditions are set for the environmental permit** (see section 1.4.3).

3.2.1.3. Annex 3 to Regulation No 56 of the Minister of the Environment[3] specifies the datasets for environmental permits for the special use of water. Accordingly, the environmental permit must specify the name of the water body, area of special use of water (in this case, areas TP1, TP2-3 and TP4), reasons for the special use of water (in this case, work related to the construction of a wind farm) as well as the method, description of substances, maximum permissible volumes of special use of water, requirements for special use of water and the need for monitoring. The environmental permit does not record the exact locations of the special use of water work (ie the locations of the wind turbines or the final location of the cables) but indicates their possible placing within the special use of water area. The purpose of the indication is in particular to describe the scope, coverage and indicative layout of the special use of water, hence, which has been the basis for granting the permit. In determining the indicative layout, the EIA report has been taken into consideration, **but some shifting of the special use of water locations based on mitigation measures is possible.** The final determination of special use of water locations (and thereby also the determination of the layout of wind turbines) is carried out after further research (geotechnical site investigations, mapping of seabed habitats, underwater cultural monuments, etc). However, when shifting the special use of water locations, existing restrictions and requirements must be taken into account (see figure 2, section 3.4.2.5) and it may be limited accordingly. **Upon issuing an environmental permit, it must be made sure that, within the limits of the area and subject to restrictions, it is possible to carry out special use of water work to an admissible extent and, if necessary, appropriate requirements and conditions will be laid down.**

3.2.1.4. Based on the above, during the environmental permit procedure, it will be clarified whether the special use of water in the volume and manner specified in the application is permitted within the development areas indicated in the application. **The environmental permit deals narrowly with the special use of water and the associated mitigation measures and**

monitoring needs.

3.2.2. *Necessity of a spatial plan*

3.2.2.1. According to the clarifications of the Ministry of Economic Affairs and Communications and the Consumer Protection and Technical Regulatory Authority, offshore wind farms are construction works that have a significant spatial impact and regardless of the capacity of the offshore wind farm, the preparation of a national designated spatial plan is mandatory (see sections 2.23, 2.26). By Supreme Court judgment No 3-16-1472 of 8 August 2018, Hiiu County Governor's order No 1-1/2016/114 of 20 June 2016 regarding wind energy production areas was revoked. Therefore, there are no areas designated for the development of wind energy in the Hiiu marine area. The Ministry of Regional Affairs and Agriculture (*ReM*) clarified [4] in 2023, as the relevant authority, that it does not see the possibility of developing wind farms in the Hiiu marine area in a situation where there is no current spatial plan that would provide suitable areas for the development of wind energy. Based on the Supreme Court decision 3-16-1472, it was found that since the current spatial plan in the area does not provide for suitable areas for the development of wind energy, any wind energy development activity would be contrary to the current spatial plan solution. It was also pointed out that there is no direct link between the approval of the North West Estonia Offshore Wind Farm EIA report and the fact that the Hiiu marine area does not have a plan that would foresee wind power production areas. Based on the clarifications of the Ministry of Regional Affairs and Agriculture, the North West Estonia Offshore Wind Farm EIA report also conceded the necessity of a spatial plan and that the legislation does not provide for the existence of a designated spatial plan as a prerequisite for the approval of the EIA report (EIA report p 24).

3.2.2.2. **Legislation does not stipulate the existence of a designated spatial plan as a prerequisite for granting an environmental permit.** Section 55 of the General Part of the Environmental Code Act provides that where a detailed plan needs to be established for an activity to be permitted by an environmental permit or for the installation of a building for which a building permit will not be issued before an environmental permit is granted, the environmental permit is not issued before such detailed plan has been established. According to the circuit court's appeal judgment No 3-22-987 section 21.3 of 31 October 2023, the lack of a detailed spatial plan is the basis for refusal to grant an environmental permit. However, when interpreting § 55 of the General Part of the Environmental Code Act, it is important to point out that Bill 611SE [5] originally intended to extend the validity of the provision to all spatial plans, but it was decided to abandon it with the following explanation: 'The amendment does not extend the condition that, if it is necessary to establish a spatial plan for an activity permitted by an environmental permit, the permit will not be granted before such spatial plan has been established. The requirement that where a detailed spatial plan needs to be established for an activity to be permitted by an environmental permit a permit will not be issued before such detailed spatial plan has been established remains in effect.' Therefore, the provision does not apply to all spatial plans, but only for the need of detailed spatial plans. Since the establishment of a national designated spatial plan is not a prerequisite for granting an environmental permit, there is also no basis for suspending the procedure for applying for an environmental permit until the establishment of a national designated spatial plan on the basis of subsection 4 of § 49 of the General Part of the

Environmental Code Act. The Supreme Court has held that, for example, if there is a spatial plan that excludes extraction, the refusal to grant an extraction permit is not required. At the same time, upon obtaining such permit, the developer does not yet have the right to mine, but for this it is necessary to amend the spatial plan or introduce a new one (points 19–20 of judgment 3-3-1-35-13 of 15 October 2013 of the Administrative Chamber of the Supreme Court).

3.2.2.3. In 2022, at the commission of the Ministry of Finance and the Ministry of Economic Affairs and Communications, the 'Preliminary spatial analysis for the spatial plan of wind energy areas in the Hiiu marine area' (spatial analysis of the Hiiu marine area) [6] was prepared. In it was concluded that certain areas in the Hiiu marine area have potential for spatial plan offshore wind farms. However, potentially suitable areas are not the development areas TP1, TP2-3 and TP4 covered by this order. On page 60 of the spatial analysis of the Hiiu marine area it is marked that a national designated spatial plan must be prepared for the planning of wind farms. Moreover, on page 65 it is emphasised that a national designated spatial plan should also be drawn up for the construction of offshore wind farms below 400 MW.

3.2.2.4. In summary, the legislation does not provide for the existence of a national designated spatial plan as a prerequisite for the granting of an environmental permit, but this does not mean that the establishment of a national designated spatial plan would not be necessary as a prerequisite for other permits required for the establishment of an offshore wind farm. This decision to grant or refuse to grant an environmental permit is made on the basis of the information available and deals narrowly with the special use of water as the subject of the environmental permit. The establishment of an offshore wind farm and encumbering the seabed with an offshore wind farm are not the subject of an environmental permit, these activities also require the existence of a superficies licence, a building permit and a use and occupancy permit and, if necessary, the preparation and establishment of a designated spatial plan, which is a prerequisite for these permits, and the carrying out of a strategic environmental impact assessment (subsection 6 of § 27 of the Planning Act). Thus, the area of the proposed wind farm may change in the following stages. However, implementation of the project is not ruled out at this time. The Environmental Board takes this into account when imposing secondary conditions for the environmental permit (see section 1.4.1).

3.2.3. ***Necessity of superficies licence and building permit***

3.2.3.1. An environmental permit does not give the right to build in water and the construction of a wind farm cannot be started on this basis (see section 3.2.1.). At the time of the initiation of the EIA, there was no legal basis in the Republic of Estonia for the exploitation of the seabed, including for construction in sea. In 2010, the obligation to hold a superficies licence was added to the Water Act for erecting construction works that are not permanently connected to shore in a water body. The superficies licence grants the right to encumber the seabed with offshore wind turbines for 50 years. Following the creation of the relevant legal basis, the developer submitted an application for a superficies licence to the Government of the Republic of Estonia on 15 April 2010. No decision has been made on the initiation of superficies licence procedure.

3.2.3.2. The internal sea of the Estonian marine area is a public water body and belongs to the

state (§ 23 of the Water Act). The consent of the landowner is not required for the use of such land that is located under a water body in state ownership (subsection 2 of § 186 of the Water Act). **Thus, a superficies licence, which in the present case would give the right to encumber a water body in state ownership with a construction work, is not required for granting an environmental permit.** However, according to the current law (subsection 1 of § 113[1] of the Building Code), the holding of a superficies licence is necessary for the construction of an offshore wind farm.

3.2.3.3. The right to build is granted by a building permit (subsection 1 of § 38 of the Building Code). **The existence of a building permit is not a prerequisite for the granting of an environmental permit.**

3.2.3.4. **Therefore, in order to build an offshore wind farm, the developer must also have a superficies licence and a building permit. Special use of water is not permitted until other necessary permits have been obtained. The Environmental Board takes this into account when imposing secondary conditions** (see section 1.4.3). In addition, it is clear that the construction of a wind farm without the construction of a network connecting it to the grid is not justified. It is therefore necessary in the future to address the issue of export cables, including applying for an environmental permit.

3.2.4. *Proposals for the formation of nature conservation areas*

3.2.4.1. On 17 August 2022, Birdlife Estonia made a proposal to BirdLife International for the renewal of IBAs. One part of the proposal was the marine areas of Western Hiiumaa, Northern Hiiumaa and the Northern Shoales marine areas. For all areas, a thorough analysis was carried out by experts from BirdLife International and various clarifications were also made. On 13 March 2023, BirdLife International confirmed by email to Birdlife Estonia that all 19 areas (including Western Hiiumaa, Northern Hiiumaa and the Northern Shoales marine areas) meet the IBA criteria. **Thus, Western Hiiumaa, Northern Hiiumaa and the Northern Shoales marine area are part of the IBAs** (see figure 3). The IBA program is a global initiative that aims to create a network of protected areas necessary for the conservation of the world's bird fauna and the good condition of IBA areas make it possible to ensure the preservation of viable bird populations around the world.

3.2.4.2. The selection of IBAs is the first step in the formation of marine conservation areas. Based on the above, by letter dated 6 June 2023 [7], Birdlife Estonia submitted proposals to the Ministry of Climate for the establishment of new marine conservation areas, including Western Hiiumaa, Northern Hiiumaa and the Northern Shoales nature conservation area (proposal for the establishment of nature conservation area) (see figure 3). The Birdlife Estonia letter proposed for the areas to be protected as nature conservation areas. The proposal also included a proposal for the extension of existing limited-conservation areas (including the Väinamere limited-conservation area) (including extension towards the TP1 development area).

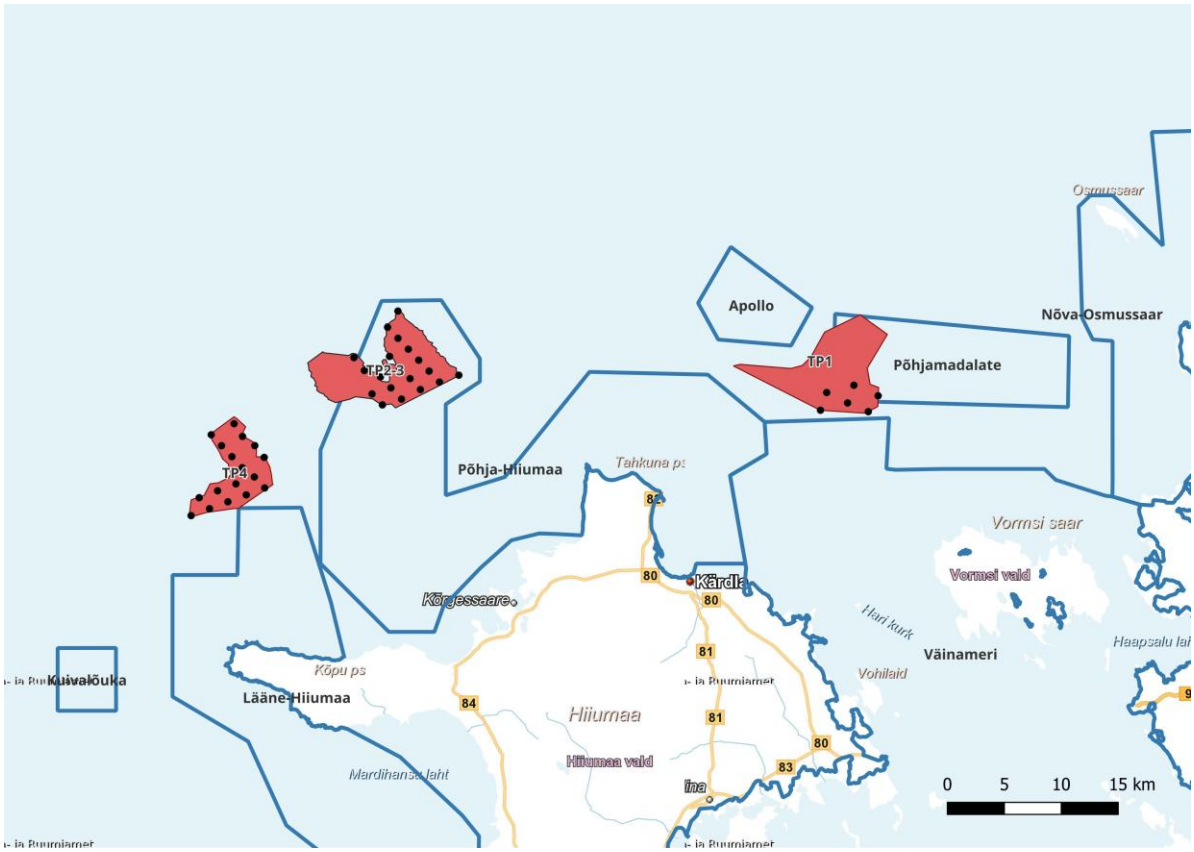


Figure 3. Internationally significant important bird areas (blue) and special use of water area (red) with updated boundaries and initial special use of water locations (black dots).

3.2.4.3. The development area TP2-3 specified in the application almost completely coincides with the proposed area for the establishment of the Northern Hiiumaa nature conservation area; the eastern part of the development area TP1 coincides with the proposed area for the establishment of the Northern Shoales nature conservation area and the southern part is adjacent to the proposed area for the expansion of the Väinamere limited-conservation area; development area TP4 borders in the south with the proposed area for the establishment of the Western Hiiumaa nature conservation area (see section 3.4.8).

3.2.4.4. The Environmental Board explained during the conditional coordination of the North West Estonia Wind Farm EIA report [8] (EIA coordinated with the Environmental Board) that if the proposals for the establishment of nature conservation area are accepted, it must be taken into account that this may lead to further restrictions to the development.

3.2.4.5. In the letter dated 11 January 2025 [9], the Deputy Secretary General of the Ministry of Climate Antti Tooming asked the Environmental Board to organise the preparation of an expert assessment of the reasonableness and feasibility of placing the other areas specified in the Birdlife Estonia proposal under protection (including the extension of the Väinamere limited-conservation area), but not about the Western Hiiumaa, Northern Hiiumaa and the Northern Shoales areas proposed for the establishment of nature conservation area. Therefore, the proposals for the establishment of Western Hiiumaa, Northern Hiiumaa and the Northern Shoales nature conservation areas are currently still in the proposal stage.

3.2.4.6. On the basis of subsection 6 of § 8 of the Nature Conservation Act, it is possible to suspend the procedure for issuing an administrative act if a proposal to place a natural object under protection has been submitted. The procedure could be suspended for no longer than 28 months. The Nature Conservation Act in force on 5 May 2006 did not contain such a provision at the time of submission of this application. Subsection 8 of § 279 of the Water Act sets out that the processing of applications for permits for the special use of water accepted for processing before the entry into force of this Act shall continue pursuant to the procedural provisions which were in force at the time when the applications were accepted for processing (see also subsection 5 of § 5 of the Administrative Procedure Act). Thus, the present application is being processed under the rules of procedural law of the previous versions of the Administrative Procedure Act and Water Act. Subsection 6 of § 8 of the Nature Conservation Act can be treated as a legal provision governing administrative procedure, which entered into force on 16 December 2007, ie after the commencement of the application procedure. Therefore, the said provision cannot be relied on in the application procedure for this environmental permit. However, even if the provision could be applied on a substantive law basis, it would not be justified to suspend the environmental permit procedure. The purpose of the suspension of the procedure provided for in subsection 6 of § 8 of the Nature Conservation Act is to ensure that a natural object worthy and in need of protection in the general interest is not adversely impacted. The partial granting of an environmental permit (see section 1.2) and the imposition of secondary conditions (see section 1.4.2) can exclude negative impacts. In addition, on 17 August 2025, it will be 3 years since the submission of proposals for the establishment of a protected area, during which no protected area has yet been established (the proposals sent for the preparation of an expert assessment are also still in progress). Thus, deciding on the establishment of marine protected areas is a long and thorough process, and suspending the procedure for 28 months would very likely not serve its purpose in this case.

3.2.4.7. The circuit court of appeal has found in point 11 of matter No 3-23-1539 of 30 January 2025 that it is also appropriate to take into account areas that are most likely to be taken under protection when granting permits. In its audit of 11 March 2025 [10], the National Audit Office has recommended that the Minister of Climate amend the Nature Conservation Act and the Forest Act and establish rules to prevent damage to natural values in areas for which the creation of a compensation area has been initiated. **Thus, the following principle emerges, the proposed nature conservation areas must also be taken into account in the granting of permits, so as not to make it impossible to achieve the broader objectives at a later date — the proposed restrictions should also be taken into account in the granting of permits.** This is a principle that was not formulated at the time of the approval of the EIA report.

3.2.4.8. **Based on the above, in its considerations, the Environmental Board analyses the perspective of the proposals for the establishment of nature conservation area (see section 3.4.8) and whether the proposed special use of water would be possible in a situation where the nature conservation areas would have been established on the basis of the objectives set out in the proposals for the establishment of nature conservation area** (see section 3.4.8, 3.5). If nature conservation areas are not established, are established on a smaller scale or the protection

regime established in the areas differs from that in the proposal for the establishment of nature conservation area, an amendment of the environmental permit is possible. The Environmental Board takes this into account when imposing secondary conditions (see section 1.4.2).

3.3. Granting of and grounds for refusal to grant an environmental permit

3.3.1. An environmental permit is granted if there are no grounds for refusing to grant an environmental permit. **The grounds for refusal derive from the law in force at the time of the decision to grant an environmental permit** (see also § 54 of the Administrative Procedure Act). Subsection 1 of § 192 (1) of the current Water Act sets out the grounds for refusal to grant an environmental permit, referring, inter alia, to the cases provided for in clause 1 and 3–10 of subsection 1 of § 52 of the General Part of the Environmental Code Act.

3.3.2. An environmental permit is **refused to be issued if the proposed activity compromises the achievement of water protection objectives** (clause 8 of subsection 3 of § 192 of the Water Act). The aim of water protection is to achieve a good environmental status of the marine area (clause 6 of subsection 1 of § 31 of the Water Act). The criteria for good environmental status of the sea are set out under 11 descriptors (D1-D11) in Marine Strategy Framework Directive 2008/56/EC (MSFD) [11] and under two units (good ecological and chemical status) in Water Framework Directive 2000/60/EC (WFD) [12]. In addition, the objective of water protection is to prevent deterioration of the status of aquatic ecosystems (clause 2 of subsection 1 of § 31 of the Water Act) and to terminate the discharge of priority hazardous substances into water and restrict discharge of pollutants, including other hazardous substances, into the aquatic environment (clause 4 of subsection 1 of § 31 of the Water Act).

3.3.3. The issuer of an environmental permit refuses to grant the environmental permit where the proposed activities do not comply with the requirements provided by law (clause 4 of subsection 1 of § 52 of the General Part of the Environmental Code Act). In the comments to the General Part of the Environmental Code Act [13], it is explained that 'since the purpose of granting environmental permits is primarily to deal with environmental issues (see also comments on § 1 of the General Part of the Environmental Code Act), the scope of this provision probably also includes **conflicts with other laws of the special part of the Environmental Code**, such as the requirements of the Nature Conservation Act.' Therefore, the granting of an environmental permit must also comply with the requirements of the Nature Conservation Act.

3.3.4. The issuer of an environmental permit refuses to grant the environmental permit where **the activity entails an environmental threat** that cannot be avoided, unless the interest in the granting of the environmental permit is an overriding one, the activity lacks a reasonable alternative and measures for reducing the threat have been taken (subsection 1 of § 192 of the Water Act and clause 6 of subsection 1 of § 52 of the General Part of the Environmental Code Act).

3.3.5. According to § 5 of the General Part of the Environmental Code Act, 'environmental threat' means the sufficient likelihood of emergence of a significant environmental nuisance. In

the comments on § 5 of the General Part of the Environmental Code Act it is stated [14] that the concept of 'environmental threat' includes two elements: the sufficient likelihood of an adverse consequence and its significance. An environmental threat is therefore defined as a situation in which the two conditions occur simultaneously and where there is a reasonable probability that a significant environmental nuisance will occur. According to subsection 1 of § 3 of the General Part of the Environmental Code Act, 'environmental nuisance' means a human-induced direct or indirect adverse impact on the environment, including impact on human health, well-being, property or cultural heritage via the environment. According to clause 5 of subsection 2 of § 3 of the General Part of the Environmental Code Act, the emergence of a significant environmental nuisance is presumed in the event of causing a significant adverse impact on an area of the Natura 2000 (Natura) network of the European Union.

In point 32.2.1 of Judgment No 3-15-2596 of 28 February 2017 of the Tallinn Administrative Court it is emphasised that **precluding the achievement of environmental objectives can also be a direct environmental threat.** An environmental threat must be prevented in accordance with the principle of prevention. An environmental threat or an environmental nuisance must be tolerated where the activity is required due to overriding public reasons, there is no reasonable alternative and required measures have been taken to reduce the environmental threat or the significant environmental nuisance (§ 10 of the General Part of the Environmental Code Act). An administrative authority has the obligation to apply the principle of prevention in order to prevent the occurrence of significant adverse environmental impacts.

3.4. Impacts arising from the special use of water

The environmental permit regulates dredging, the placement of solid substances at the bottom of the sea below the average water level, and the placement of dredging spoils. In addition to the impacts of special use of water, the EIA report dealt more broadly with the construction of offshore wind farms (wind turbine towers, blades) and wind farm operation (generation of electricity during the operation of wind turbines) and the impacts associated with these activities. **Thus, the order identifies the impacts arising from the special use of water, which is the basis for deciding on the granting of an environmental permit and determining the requirements.** Since the more distant purpose of the special use of water is the installation and implementation of a wind farm, aspects that are outside the scope of the environmental permit will also be marked for the sake of clarity, and which will be decided accordingly in the following stages.

3.4.1. Impacts on hydrodynamics and water quality (including suspended solids)

3.4.1.1. The potential environmental impacts of suspended solids from dredging are diverse and can affect both water quality and marine life. In addition, when dredging, previously settled pollutants and nutrients can be thrown into the water column. The addition of nutrients to the matter cycle of the water column can lead to eutrophication and lack of oxygen in the bottom layer of the water body. Impacts similar to dredging may also be accompanied by dumping (the discharge of soil to the seabed), but dumping is not planned according to the application. Impacts

similar to dredging can also occur during the process of filling the foundation cone with sand (water rich in suspended solids flows out of the cone when filling it with sand) and when laying a cable trench in the soil. With the placement of solid substances, significantly less suspended solids or previously settled pollutants and nutrients are released into the aquatic environment. Summing up, the North West Estonia Offshore Wind Farm EIA report pointed out that the soil is not polluted in the area. The suspended solids generated during the works settle in the areas of shoals and shallows. Suspended solids also spread and settle on existing protected areas located in the area, but the impact of suspended solids on protected areas is negligible or insignificant, remaining there in all cases within the limits of the natural concentration. The impact on water quality associated with work on the seabed is short-term and local. However, it was considered necessary to monitor the creation and spread of suspended solids and to take this into account regarding biodiversity in the organisation of works (section 10.2 and 11.2.2 of the EIA report).

Various studies [15], [16] have shown that wind turbine foundations can potentially cause an increase in vertical movement of water (summer stratification decreases) and thus increase the transport of nutrients throughout the water column. On the other hand, a decrease in wind speed (wake effect) has also been found to cause changes in the structure of currents, reduce vertical mixing, and contribute to oxygen deficiency [17]. Thus, the solid physical body in the water (the solid substance at the bottom of the sea) and the wind turbine towers and the operation stage of the wind farm have an impact on hydrodynamics and thus also on the quality of the water. In addition, changes in hydrodynamics can extend beyond the wind farm area and affect sediment transport and coastal processes more broadly. However, in the North West Estonia Offshore Wind Farm EIA report it was pointed out that the foundations and the stage of operation of the offshore wind farm have no impact on water quality, and no or very small impact on the waves. The establishment of wind farms in the coastal sea does not impact (no or neutral impact) the nature of coastal processes (waste-accumulation processes), their exacerbation or weakening. However, pre-construction and in-service monitoring was considered necessary to validate the results (sections 11.2.1, 11.3.1 of the EIA report).

3.4.1.2. Special use of water is planned for the area of the Northern Baltic Proper (NBP) of the Baltic HELCOM sub-basin. The special use of water area is bordered by the Hiiu Shoal coastal water body (EE_7). Based on the HELCOM reports [18], the status of the NBP sub-basin is not good. In 2024, MSFD descriptor-based status assessments (MSFD status assessment) were prepared [19] and in 2023, WFD status assessments [20]were issued for the Hiiu Shoal coastal water body. On the basis of MSFD status assessment descriptor 5 (eutrophication, D5), good environmental status has not been achieved in the Hiiu Shoal coastal water body, according to the WFD status assessment, the ecological status of the Hiiu Shoal coastal water body is poor (due to previous nutrients, eutrophication). In the report on the status of the marine environment [21] it is pointed out that eutrophication in the Baltic Sea is primarily associated with an excess nutrient load caused by human activities. The main release of phosphorus and nitrogen comes from the rivers flowing into the Baltic Sea. Agriculture clearly has the highest proportion of the nutrient load reaching the sea by rivers. Other sources of nutrients include forestry, industry, domestic water through settlement water treatment plants and from scattered settlements, rain water and aquaculture. The proposed special use of water area is located in an area of very high natural

variability in the territorial sea, where the waters of the open part of the Baltic Sea come into contact with the coastal water mass. According to TalTech 2024 analysis [22], the vast majority of Hiiu Shoal coastal sea load comes from the open sea and is associated, inter alia, with phosphorus (P) released from deep-sea depths under anoxia conditions.

3.4.1.3. The North West Estonia Offshore Wind Farm EIA report has modelled the spread of suspended solids and discusses the P load associated with the works and the impact of the suspended solids and the added P on the water quality.

In the EIA report modelling of the spread of suspended solids was based on the fact that 10% of sediments get into suspended solids. On page 9 of the EIA report Annex 'Modelling of the spread of suspended solids for the preparation of the North West Estonia Offshore Wind Farm EIA report', the following is specified: 'In the present work, when preparing the scenarios, the assumption is made that in the construction of the foundation of the wind turbines, the sediments will be raised evenly in the water column. To find the amount of sediment type, the result of the solid texture samples from the closest point to the wind turbine was used according to the work'. Thus, the model takes the type of sediment into account. According to page 18 of the EIA report, 10% is considered to be a conservative assumption and it is explained that different methods of embedding the cable are suitable, that is, even when using a high-pressure water jet, no more than 10% of the soil is released into suspended solids. In addition, 10% of soil being released into suspended solids is a value that has been used in the modelling so far in the offshore wind farm EIA reports both in Estonia and elsewhere in the Baltic region [23]. As commissioned by the Environmental Board, in 2025 TalTech prepared a methodology 'Methodology for the Assessment of the Impact on Hydrodynamics and Water Properties (including Water Quality) in the Construction of Offshore Wind Farms in order to harmonize the methodologies for further research. This also includes 10% as a value of soil being released into suspended solids. In addition, when laying cables on a soft base (hydroplow, jetting, etc), the spread of suspended solids is limited to the lower water layer [24], and the amount of suspended solids does not differ significantly between the installation methods [25]. Based on the above, according to objective information, there is no reason to believe that the special use of water would lead to a significant generation and spread of suspended solids, and the treatment given in the EIA report on the generation and spread of suspended solids is appropriate.

According to page 258 of the EIA report, during the preparation of the bases of wind turbines, 1500 kg of P are released into the water from sediments during dredging. However, this is an underestimated load. P is also released into the water column during dredging in the laying of marine cables inside the offshore wind farm, but this load is not separately specified in the EIA report. According to the application, the volume of dredging while embedding cables inside the wind farm is about 40% of the volume that takes place during the preparation of the base of the gravity base foundation. Thus, the total P load released during the construction of the wind farm during dredging is approximately 40% higher than that reported in the EIA report. Therefore, in the context of this environmental permit application, a higher P load must be taken into account.

However, in the Hiiu marine area, wind turbines are planned to be placed in the shallows and shoales of the region. According to a 2021 analysis [26] by the Estonian Geological Survey, the

thickness of the surface layer in the urstromtals and between them can vary greatly in the area of development. According to figure 11 of the same analysis, the concentration of the greater thickness of the surface layer in front of the escarpments, or on the north side, is known, while the limestone plateaus south of the escarpments, where the bedrock has risen considerably higher, the thickness of the Quaternary sediments is very small or at times non-existent. According to the sediment survey [27] carried out as part of the preparation of the North West Estonia Offshore Wind Farm EIA report (North West Estonia Offshore Wind Farm Sediment Survey), the development area is dominated by sandy and gravelly sediments. Only south of the TP1 area and along TP2-3 (sediment sampling point P02), can clay and aleurite occasionally be found. The TalTech 2025 analysis [28] states that 'In soil sediments of sedimentation accumulation sites, the average amount of potentially released phosphorus is 275 µg P/g, ie 0.9 g P/m². The highest internal phosphorus load is associated with the deeper parts of the Gulf of Livonia, phosphorus potentially released from sediments there can reach up to 1400 µg P/g (station G1), ie per 3.3 g P/m². There is also a high potential for internal phosphorus loading in Narva Bay at 2.6-3.1 g P/m² and in the Väinameri at 1.1-1.4 g P/m². A similar study in the accumulation areas of the Finnish Archipelago Sea and the Stockholm Archipelago yielded an average concentration of 630 µg P/g, ie 3.5 g P/m² for potentially released phosphorus, with corresponding values of 230 µg P/g and 0.6-1.4 g P/m² in the transport zones.' So, dredging work is currently planned in shallows and shoales, which are sediment transport areas where there is little or no layer of soft sediments and the concentration of organic matter and the proportion of bound P in sediments is significantly lower than in the accumulation area of the estuary of the Gulf of Finland [29], [30]. Moreover, special use of water is not planned/allowed in shallow/shoal areas with more fine sediments: the sample points P09 and P10 of the original area TP1 are outside the special use of water area, for TP2-3 (sample point P02) the granting of a permit is refused (see section 1.1). Based on the above, according to objective information, there is no reason to believe that the special use of water would entail a significant load on the aquatic environment. In addition, the P loading occurs only during construction and is significantly lower than for example in one offshore fish farm [31]. Overall, although the EIA report somewhat underestimates the P load, the proposed special use of water does not **add a significant P load and does not have a significant impact on the status of water bodies and the achievement of water protection objectives.** For comparison, the Gulf of Livonia offshore wind farms EIA reports (Saare-Livonian EIA report [32] and the Livonian EIA draft report [33]) also point out that the special use of water in the construction of the wind farm does not have a significant impact on the status of the water body, although the P load there is 46-115 t per wind farm and the mobile P concentration in the sediment is significantly higher. In line with the precautionary principle, monitoring of water quality is essential to reduce environmental risk (see section 3.4.1.8).

3.4.1.4. The 8th descriptor of the MSFD status assessment is pollutants in the environment (D8). In the NBP assessment unit, the concentration of cadmium (Cd) in the sediment exceeded the limit value by 73.2 times and the concentration of copper (Cu) by 1.2 times. According to the WFD status assessment, the chemical state of the Hiiu Shoal coastal water body is poor (Hg in fish). According to the North West Estonia Offshore Wind Farm EIA report, seabed sediments have not been polluted in the development areas. According to the North West Estonia Offshore Wind Farm Sediment Survey, the content of general petroleum products is greatest in sample point P02 of the TP2-3 area (449

mg/kg), which is five times higher than the set target number [34], ie the soil is not in good condition there. According to the HELCOM dredging and dumping guidelines [35], the determination of PCB, PAH and TBT compounds is not necessary in a situation where it is highly unlikely that sediments will be contaminated with these substances. According to the analysis of the long-term dynamics of the concentration of priority substances accumulating in sediment and/or biota (analysis of hazardous substances) [36], these substances are mainly related to ship repair, sewage sludge, district heating, shale oil, and other such industries. Concentrations of hazardous substances are likely to be found near ports or shipyards[37], [38], however elevated levels in sediments can also be found offshore (large fairways, deep accumulation areas) [39]. Given the sediment texture and concentration of petroleum products in the sample point P02 of the area TP2-3, it would be appropriate to monitor the dredging spoils of the area prior to establishing the location of the wind turbines. Based on the results of the analysis, it would be possible to exclude pollution in a wider area and, if necessary, additional measures (bubble curtains, etc) can be applied. Upon implementing measures, it is possible to exclude a significant negative impact on water quality. However, since the Environmental Board does not consider it possible to carry out the special use of water in area TP2-3 (see section 3.4.2), it is not appropriate to impose a soil monitoring obligation on the area TP2-3. However, it is generally possible to consider that the special use of offshore water in the construction of offshore wind farms takes place in areas dominated by moraine deposits, fine and medium fraction sands, gravel, pebbles and boulders. These areas are not characterized by significant historically formed chemical pollution. Therefore, significant negative consequences for the aquatic environment due to secondary pollution are not to be expected [40]. **Based on the above, the proposed special use of water does not involve the release of hazardous substances from sediments into the water and the operation does not have a significant impact on the status of water bodies and the achievement of water protection objectives.**

3.4.1.5. The quality of water can be significantly impacted by an accident during construction or operation, including accidents when carrying out special use of water work. In the North West Estonia Offshore Wind Farm EIA report it was pointed out that in normal conditions (normal construction work and normal use of wind turbines), pollution (eg oil stains) does not occur. The impact exists only in the event of an accident. Accidents can be avoided by implementing preventive measures, and the spread of oil spills can be controlled in the event of an accident by promptly and competently eliminating its consequences. Thus, it is important to prevent accidents and develop a corresponding pollution control plan, that is, it is important to prevent accidents, but one must also ensure readiness to eliminate accidents. The mitigation measures outlined in the EIA report must be implemented in relation to the construction stage, as this largely overlaps with the special use of water (see sections 3.6.24.-3.6.26). The measures are expected to be effective as they help to prevent the occurrence of oil spills and, upon its occurrence, prevent/minimise the impact of pollution on the environment (including its arrival to coastal areas). In addition, in view of the additional traffic in the marine area due to the establishment of a wind farm, it is necessary to develop a pollution control plan before the start of the special use of water, taking into account all the protected areas in the region. The pollution control plan provides clarity on how to respond when pollution occurs in order to prevent pollution from spreading to protected areas (including proposed areas) and to the coast. The development of a

pollution control plan is important already for the period of special use of water, because already during the special use of water, maritime traffic intensifies significantly (see section 3.6.23). **Based on the above, upon implementing measures the proposed special use of water will not cause a risk of accident and thereby will not have significant impact on the status of water bodies and the achievement of water protection objectives.**

3.4.1.6. The 7th descriptor of the MSFD status assessment is hydrographical conditions (D7). The descriptor indicators observe the spread and extent of a marine area modified hydrographically by human activities (eg, wave movements, currents, salinity, temperature changes). Only human activities that bring about significant change are covered. The modelling, as cited in the North West Estonia Offshore Wind Farm EIA report concluded that there are no significant changes in hydrographic conditions during the operational stage and that water quality is not impacted. However, it was considered important to verify the modellings with measurements before the construction of the wind turbines and during the operational stage. Given that the role of tides in the dynamics of the Baltic Sea is very modest and the main trigger for currents is wind, directly or indirectly through the generation of water level gradients or basin self-oscillations, then the relative contribution of wind to the kinetic energy of the currents and also to vertical mixing in our marine area is larger compared to the North Sea. There are no offshore wind farms in Estonia and there is no information on the extent of the wake effect and the possible impact on water quality in Estonian conditions. Given the uniqueness of Estonian marine areas (virtually no tides; strong seasonality; low salinity; strong horizontal and vertical density gradients; seasonal ice cover), studies conducted in other marine areas are not easily transferable here and estimates based on simulations contain a considerable amount of uncertainty [41]. Possible changes in hydrodynamics are not only due to the underwater part of the wind turbine, but are largely related to the wake effect associated with the operation of the wind turbine tower and wind turbines. The wake effect can impact water quality and movement, however, the impacts associated with wind turbine towers are not related to the scope of the environmental permit (special use of water). **According to the available information, foundations built in the course of special use of water do not have a significant impact on the state of water bodies and the achievement of water protection objectives.** In line with the precautionary principle, monitoring is essential to reduce environmental risk (see section 3.4.1.8).

3.4.1.7. In the North West Estonia Offshore Wind Farm EIA report, it was considered essential to monitor the creation and spread of suspended solids and to take this into account in the organisation of works (section 10.2 and 11.2.2 of the EIA report). The requirements are set for the environmental permit (see sections 3.7.16, 3.6.10, 3.6.16), since the formation of the suspended solids is directly related to the special use of water. Water quality is directly impacted by the special use of water (substances released from sediments into the water), including the foundations laid during the special use of water (impact on water movement), so it is also important to carry out more precise monitoring of water quality and hydrodynamics before and after the special use of water (see sections 3.7.5.–3.7.7, 3.7.22). The monitoring of waves indicated in the EIA report (sub-sections 11.2.1 of the EIA report) must be set up in the following steps, as it is related to the wake effect. The monitoring enables the validation of the conclusions presented in the EIA report regarding changes in hydrodynamics as well as the P load associated with dredging. It was also considered important to carry out the corresponding monitoring of

water quality and hydrodynamics in the Saare-Livonian EIA report referred to in section 3.4.1.4 and in the draft report of the Livonian EIA report. According to the results of the monitoring, it is possible to apply additional mitigation measures if necessary.

3.4.1.8. According to the application, the dredging spoils obtained during the preparation of the base of the gravity base foundation are used for filling the foundations, and the cables are covered with the soil obtained during the construction of cable trenches. On page 51 of the EIA report, it is pointed out that the soil in the development areas will not be released back into the sea, nor is it planned to remove seabed sediment to the coast. The dredged soil is stored on platforms specially built for the transport of material. If the construction design documentation of a particular foundation footing foresees materials of different strength, they are laid in layers in the foundation or mixed according to the recipe. Thus, the dredging spoils are used beneficially. Due to the absence of dumping, the activity has less impact on water quality (suspended solids, the release of nutrients and pollutants into the water) and does not lead to additional seabed loss. The said work organisation is set in the environmental permit (see section 3.6.3).

3.4.1.9. **Based on the above, the proposed special use of water does not involve the release of hazardous substances from sediments into the water and does not add a significant extent of suspended solids or P loads that would have a significant impact on the status of the water bodies and compromise the achievement of water protection objectives. The works will cause temporary and local changes, which are unlikely to be significant because this special use takes place over a wider marine area and over a longer period of time. According to the available information, foundations built in the course of special use of water do not have a significant impact on hydrodynamics and thereby on the status of water bodies. It is appropriate to carry out appropriate monitoring and implement measures (spread of suspended solids). Upon implementing the measures, the proposed special use of water also does not entail an accident risk.**

3.4.2. Impact on seabed biota and habitats

3.4.2.1. According to the North West Estonia Offshore Wind Farm EIA report, on the one hand, the preparation of the seabed leads to the immediate loss of habitats, in addition, existing communities can be damaged (disturbance in the form of suspended solids). In the case of the proposed activity, the seabed under the wind turbine foundation is mostly hard substrate, which is classified under the habitat type of reefs (1170) in the Habitats Directive 92/43/EEC[42] (Habitats Directive). The construction of wind turbines will also lead to some loss of sand banks covered by sea water (1110). Chapter 10 of the North West Estonia Offshore Wind Farm EIA report provided for the need to implement mitigation measures in order to minimise the impact of special use of water on seabed biota and habitats, in particular reefs (avoiding reefs if possible). Chapter 11 of the EIA report also noted the need for monitoring seabed habitats in order to identify the status before and after the works. In addition, it was considered necessary to monitor suspended solids and organise the work based on the monitoring in order to prevent the spread of suspended solids to protected areas (section 11.2.2 of the EIA report). In the North West Estonia Offshore Wind Farm EIA report it is pointed out that considering the entire Estonian marine area,

the impact of the planned activity is insignificant.

3.4.2.2. The 6th descriptor of the MSFD status assessment is the integrity of the seabed (D6), where indicators of good environmental status include, for example, the area of natural seabed loss and disturbance. The good environmental status limit is the loss of a habitat type up to 2% of its area. In the MSFD, a good environmental status limit of 25% is set for the physical disturbance area [43]. The MSFD status assessment states that taking into account the proportion of destroyed and disturbed areas to the area of each main habitat type within the Estonian marine area, the size of the impacted area does not exceed the maximum permitted rate (good environmental status limit) and the good environmental status is assessed as good. However, looking at the MSFD habitat type status perspective (descriptor: extent of adverse impact [44]), the good environmental status limit is not reached in terms of the Circalittoral rocky bottom and biogenic reefs of the habitat type. In addition, the habitat types listed in Annex I to the Habitats Directive must be protected (reefs and sandbanks). According to the Habitats Directive, the conservation status of a habitat type is favourable if the loss is ≤ 1% of its range and/or disturbance ≤ 10% of its range. In the 2024 analysis by the Estonian Marine Institute of the University of Tartu 'Loodusdirektiivi mereelupaikade seisundi hindamine ja EL Looduse taastamise määruse mereelupaikade piiritlemine' [Assessment of the Status of Marine Habitats of the Habitats Directive and Delimitation of Marine Habitats of the EU Nature Restoration Regulation'], the **status of reefs was assessed as unfavourable-inadequate.** The said work clarifies that, unlike previous assessment methodologies, trends, including future trends and prospects, need to be taken more into account in accordance with the updated implementation guide of Article 17 of the Habitats Directive.

3.4.2.3. As a habitat type, reefs are considered to be underwater rocks that rise significantly above the seabed, that can be exposed at low tide, and formations created by moraines or formations of biological origin. In Estonia, this habitat type includes ridges rich in boulders or composed of bedrock, which may extend above sea level during the lowering of water level. In the coastal sea of Estonia, reefs are distributed over a relatively small area. The biota of reefs is very diverse, the vegetation is mainly composed of brown and red algae communities, bladderwrack (*Fucus vesiculosus*) communities are especially rich in species. Reef biota is characterized by high biological productivity. Mussel populations are a good food source for birds. For example, one of the characteristic species of reefs is the common mussel, which is one of the most important food item for diving ducks, eg the long-tailed duck. In order to maintain the favourable condition of reefs in protected areas, it has been deemed necessary to ensure the integrity and development of the habitat solely as a natural process [45]. It is important to bear this principle in mind in relation to the proposals for the establishment of nature conservation areas in development areas. In addition, it is important to ensure the good conservation status of reefs also in specific marine areas.

3.4.2.4. The North West Estonia Offshore Wind Farm EIA report deals with the loss of seabed habitat types in the development area based on the recorded habitats. According to page 134 of the EIA report, the development areas constitutes a total area of 14.6 km² (15% of the TP1 area, 46% of the TP2-3 area and 15% of the TP 4 area). According to page 278 of the EIA report, the

loss of reefs upon installation of turbine foundations is 0.08 km² and the disturbance area is 0.48 km². The EIA report has deemed the placement of cables inside the wind farm a disturbance, not a loss, of seabed habitat. However, according to the HELCOM HOLAS 3 [46] guidelines, the base of the wind turbines on the seabed, and the 30 m buffer around the foundation and the cable corridor (1.5 m wide corridor) must be counted as a loss of seabed. A 1 km wide buffer around the wind turbine and cable must be considered as a disturbance area. Such guidance is also set out in the Environment Agency's 2024 analysis [47]. The assessment of the impacts of the Northern Saare [48], Saare Livonian[49] and Gulf of Livonia [50] offshore wind farms has also specified that cable placement must also be counted among seabed loss. Moreover, the University of Tartu Estonian Marine Institute's survey 'Seabed Survey, Artificial Substrate Colonisation Survey and Water Quality Survey in the Saare-Liivi 5 Offshore Wind Farm Area. Report 2: Seabed Biota and Habitats Survey' has highlighted that **seabed losses from cable laying are equivalent to or greater than those from the installation of gravity base foundations.** The loss of habitats on the seabed during cable laying manifests itself primarily in hard soil (reefs), where cable embedding takes place. There, habitat loss is caused by loss of substrate, which disappears during dredging (the material is removed and then placed back in the trench to cover the cable, but in this case it is no longer a material with the same properties (shredded material vs limestone plate)). **The impact of laying cable connections can be assessed as equally important to gravity base foundations**. However, the North West Estonia Offshore Wind Farm EIA report has not considered the area of cable laying among seabed loss. Thus, the special use of water causes a greater loss of seabed than indicated in the EIA report.

3.4.2.5. **Based on the above, the EIA report underestimates the loss of reefs and the area of disturbance.** Thus, in the context of this environmental permit application, the loss of reefs caused by the preparation of potential cable corridors and the laying of cables within the wind farm as a part of the special use of water must be included. Based on the above, the special use of water will add 0.08 km² to the loss of reefs. It is also necessary to establish export cables, which also requires the special use of water and which are not covered by this environmental permit application, but without which the establishment of an offshore wind farm would have no purpose. All in all, special use of water work can lead to a loss of about 0.16 km² of reefs which is about 1.1% of the area of reefs in the development areas.

3.4.2.6. In the case of the solution presented in the environmental permit application, all special use of water locations in area TP1 can be located outside the reef habitat areas listed in the EELIS database. In area TP2-3, the environmental permit application has placed an estimated 13 special use of water locations in relation to potential foundations in such a way that it will cause or rather cause an impact on the reef habitat type, and 6 special use of water locations in such a way that no or rather no impact on the habitat type is caused. In area TP4, an estimated 5 special use of water locations have been placed in relation to potential foundations in such a way that it will cause or rather cause an impact on the reef habitat type, and 12 special use of water locations in such a way that no or rather no impact on the habitat type is caused. **Thus, the overlap of special use of water locations with reefs is greatest in the area TP 2-3.** On the other hand, it must also be taken into account that the data on the spatial layout of the habitat type of reefs in the development areas is uneven and partly with high, partly low reliability, depending on the surveys

carried out at different times and with different methodologies as part of the EIA. However, in terms of reliability, it is not so much a question of whether there are reefs, but rather where exactly they are (there are simply very few survey points, rather modelling has been used).

The exact special use of water locations may shift slightly based on the results of subsequent surveys (see section 3.2.1.4). The EIA report (p 281) sets out mitigation measures: the establishment of an offshore wind farm should be based on habitat type maps and, if possible, no or fewer wind turbines should be installed in an area where habitats of conservation value exist, in particular those of the habitat type reefs (1170) as specified in Annex I to the Habitats Directive, which have high conservation value. In addition, a minimum distance between potential wind turbines must also be ensured and other restrictions set out in the EIA report complied with: for area TP 2-3, restrictions related to fish fauna, for TP1 restrictions related to bird fauna and protected areas, for TP4 restrictions related to the deposit, in all areas, the direction of migration of birds must be observed in the placement of the wind turbine, cultural monuments must be avoided, etc (EIA report sections 10.3, 10.4., 10.5., 10.9., 10.10.). In TP 2-3, restrictions may be necessary based on the chemical composition of the sediment in the area of sample point P02 (see section 3.1.4.5). **Based on the above, it is possible to shift the special use of water locations, but it is obvious that the possibility of shifting the special use of water locations is limited.**

Thus, according to available information, it is difficult to assess the exact loss of reefs or whether it is possible to avoid the loss by shifting the special use of water locations. The assessment is particularly difficult in areas where reef coverage is particularly high (46% reef coverage in area TP2-3, ie approximately 32% higher coverage than in areas TP1 or TP4) and where there are the most shifting constraints (restrictions related to fish fauna and sediment chemical composition in area TP2-3).

In area TP2-3, the distribution of reefs is most extensive, however, data on benthic habitats are of varying reliability. The 2008 survey ‘Recording of Seabed Biota and Habitats of the Area of the Offshore Wind Park on the North-West Coast of Hiiumaa” (Estonian Marine Institute of the University of Tartu) shows that the seabed substrate in the northern part of Vinkov shallow (a large part of the TP2-3 area) is composed of carbonate sedimentary rock, but according to a figure presented in the report, such type of seabed can also be found in several southern parts of the area. The cutting of a cable trench into such bottom substrate in the course of the special use of water can be considered a significant damage to the naturalness of the seabed. In addition, there are many tiny habitat patches in the southern part of the TP2-3 area, in said area the habitat depends a lot on the relief of the seabed, but the relief is quite variable in that area. Also, the reliability of information is low. Thus, according to the available information, there is no certainty about the possibility of implementing mitigation measures - whether it is possible to shift the special use of water locations so as to prevent or minimise the loss of habitats. Even if, by choosing the exact special use of water locations, it would be possible to reduce the actual destruction of the habitat to some extent, it still does not completely eliminate all risks. Construction technology, as well as subsequent maintenance work, might damage the immediate surroundings and impact the ecological integrity of the reefs. In addition, the selection of special use of water locations when laying cables is not very flexible. Thus, the special use of water would cause, in addition to the

loss of reefs, a decline in habitat quality and fragmentation [51]. Such special use of water is not practical to plan from the point of view of environmental protection even in an area where there are many tiny habitat spots. In addition, shifting the special use of water locations creates the need to cover a wider marine area (including the adjacent shallows and shoales), which is a rather negative development. **Thus, in the area TP2-3, according to the available information, it is not possible to avoid reefs to a significant extent during the special use of water. In the area TP2-3, the special use of water causes a decrease in the reef area as well as a decrease in habitat quality, an increase in the number of reefs disturbed by the works and fragmentation of habitats.** The special use of water is thereby also impacting the bird population (see section 3.4.4.4). Moreover, both seabed habitats and birds dependent on said habitats have been identified as conservation objectives in the proposals for the establishment of nature conservation area (see section 3.4.8.2).

3.4.2.7. Pursuant to § 3 of the Nature Conservation Act, the conservation status of a natural habitat will be taken as favourable when its natural range and areas it covers within that range are stable or increasing, and the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and the conservation status of its typical species are favourable. In addition, the Habitats Directive and MSFD create an obligation for the state to protect the status of marine habitats. Findings made in the Lääne-Saare EIA report [52], Saare-Liivi EIA report [53] and the Liivi EIA draft report [54] show that it is important to avoid installing wind turbines on valuable reef habitat types. The proposed offshore wind farm for the Lithuanian marine area will also avoid an area with valuable reef habitats [55]. **In addition, it has been considered important to avoid reefs outside protected areas. This is supported by the fact that the status of the reefs is assessed as unfavourable.** In areas TP2-3 and TP4, it is not possible to completely avoid reefs in the special use of water process. Since the reef coverage in area TP4 is significantly smaller, it is very likely that their loss can be minimized by finding the most suitable arrangement of special use of water locations. The loss of reefs is greatest in the area TP2-3, where the distribution of reefs is greatest and it is not possible to significantly reduce the impact by shifting the special use of water locations (see section 3.4.2.6 and 3.9.9). Moreover, in the case of TP2-3, the special use of water area coincides with the area proposed for the establishment of a nature conservation area, and according to said proposal, the protection of the reef habitat type should be one of the protection objectives of the area (see section 3.4.8.2.). In addition, it is possible to limit the spread of suspended solids during the works, but it is not possible to prevent its occurrence. Thus, there are no measures to prevent the loss and disturbance of reefs in area TP2-3. **With the granting of an environmental permit for the area TP2-3, the risk of damaging the reef habitat type, which has poor future prospects, is realised when carrying out works in the water. The implementation of the activity entails a risk of compromising the achievement of the objectives set out in the MSFD and Habitats Directive. Based on the above, special use of water in area TP2-3 must be avoided. In areas TP 4 and TP 1, while locating wind turbines, it is necessary to avoid reefs and comply with the mitigation measures specified in section 10.3 of the EIA report (see sections 3.6.4.-3.6.10) and monitoring measures (see sections 3.7.8.-3.7.10., 3.7.16.-3.7.20., 3.7.23.-3.7.25).**

3.4.3. Impact on fish

3.4.3.1. According to the North West Estonia Offshore Wind Farm EIA report, the temporal impact of the wind farm on fish fauna can be divided into three stages: impact at the time of construction, operation and dismantling. In the case of the gravity base foundation, the most important are the impacts related to the generation of suspended solids and the re-suspension of sediments, followed by construction noise, the operating noise of wind turbines, the electromagnetic field effect of cables, the reef effect and finally the noise of maintenance ships (page 306 of the EIA report). According to the environmental permit application, the foundation planned is a gravity base foundation, so an important aspect is the generation of suspended solids that accompany dredging works. In addition, during the special use of water, a new substrate is placed in the water (reef effect), and the work is accompanied by operational noise of the equipment. On the other hand, the impacts of wind farm operating noise and the electromagnetic field of cables are related to the operational stage and civil engineering works of the offshore wind farm and not to the special use of water.

3.4.3.2. Criterion 1 of the MSFD status assessment is biological diversity (D1), criterion 3 commercially exploited fish (D3) and criterion 4 food webs (D4). For all these criteria, the status of fish fauna is important, when a good status has not been achieved.

3.4.3.3. The North West Estonia Offshore Wind Farm EIA report outlined measures to minimise the impact of the special use of water (monitoring of suspended solids and organisation of work according to the monitoring, scheduling of works, use of non-toxic solid substances in the foundation). The environmental permit will prescribe the measures indicated in chapter 10 of the EIA report and which are relevant based on the special use of the water indicated in the application (see sections 3.6.11 to 3.6.16) and the monitoring of fish fauna in accordance with chapter 11 of the EIA report (see sections 3.7.11, 3.7.21, 3.7.26). Given that the special use of water in connection with the installation of potential wind turbines and cables inside the wind farm is not carried out during the active spawning period of fish and the monitoring of the suspended solids is carried out during the work and the work is organised accordingly, **the impact of the special use of water on fish fauna is local and temporary.**

3.4.3.4. In the North West Estonia Offshore Wind Farm EIA report, it was pointed out that the impacts of the wind farm on fish fauna are also related to underwater noise. The underwater noise during the operation of the wind farm is not related to the special use of water. The environmental permit grants the right for special use of water, and the special use of water has no purpose in its own right without the construction of a potential new wind farm. Although this permit procedure concerns construction activities below the water level, the purpose of the construction work is to install wind turbines, so the broader objective must not be overlooked. In assessing the impact during operation, the EIA report has relied on the most sensitive species in terms of noise (the Baltic herring) [56]. According to the North West Estonia Offshore Wind Farm EIA report, significant negative impact can be mitigated by the appropriate placement of wind turbines: the turbines on the side of a trench must be moved away from the trenches or their installation should be abandoned. The mitigation measure set out in the EIA report was already being considered in

the preparation of the application. In addition, more recent surveys [57] carried out in the Gulf of Livonia have not identified a significant impact of the operating noise of wind turbines on fish fauna, there is no extensive departure of fish from the area due to noise, there is some reduction in Baltic herring numbers within a radius of approx 700 m from the noise source. However, the total density of the Baltic herring usually did not decrease over the course of the experiments in the exploration area. Thus, no significant negative impact on fish fauna is foreseen even during the operational stage of the wind farm. The operational noise of the wind farm is not related to the special use of water, so it is not appropriate, considering the special use of water, to set out the measures specified in the EIA report related to the operational noise in the environmental permit. The information and guidelines outlined in the EIA report should be adhered to in the next stages in determining the final location of the wind turbines.

3.4.4. Impact on birds

3.4.4.1. According to section 6.4 of the North West Estonia Offshore Wind Farm EIA report, the impacts associated with the establishment and operation of wind farms on bird fauna are mostly divided into four major categories: disturbing and repelling impact, destruction or change of feeding grounds, collisions with wind turbines and obstacles on flight and migration routes (barrier effect). According to the environmental permit application, dredging and placement of solid substances are planned for the installation of gravity base foundations. **Thus, the special use of water impacts the food supply and feeding conditions of birds (loss of seabed and the generation of suspended solids), plus visual and acoustic disturbance during construction and the risk of accidents.** The barrier effect and the risk of collision are linked to the wind turbine towers and operating stages and are therefore not related to the subject of the environmental permit.

3.4.4.2. The objective of IBAs is to create a network of protected areas necessary for the conservation of the world's bird fauna and the good condition of IBA areas make it possible to ensure the preservation of viable bird populations around the world. Development area TP2-3 overlaps with the Northern Hiiumaa IBA, the Western Hiiumaa IBA borders the development area TP4, the Northern Shoales IBA overlaps to a small extent with the development area TP1 (about 2 special use of water locations). The Court of Justice has emphasised that, even if a Member State has not placed an area which meets the ornithological criteria under protection as a special protection area, those areas must nevertheless be protected against deterioration of their status (see judgment of the Court of Justice in Case C-96/98 Commission of the European Communities v the French Republic). In addition, Estonia must comply with the international obligations of a Contracting Party to the African-Eurasian Migratory Waterbird Agreement: to protect migratory waterbirds and their habitats throughout the migration zone along the African-Eurasian Arctic waterbird migration route. Due to the international obligation imposed on it, Estonia is required to protect migratory bird species listed in Annexes I and II to Directive 2009/147/EC[58] (Birds Directive) and not listed in Annex I. The status of waterbirds also plays an important role in descriptor 1 (biological diversity, D1) of the MSFD status assessment. According to the MSFD status assessment, the status of waterbirds as a whole is not good during the breeding season: the status was good in only 64% of the species considered (16 species out of

25). Of the five species groups, one was in good status (birds that are pelagic feeders) and four in unfavourable status (waders, surface feeders, benthic feeders and grazing feeders). Of the wintering birds, 16 of the 17 species considered are in good status, the only one with an unfavourable status is the Steller's eider (*Polysticta stelleri*).

3.4.4.3. According to page 319 of the EIA report, there is a negative impact on the food supply and feeding conditions of birds at the stage of construction of the wind farm (including the foundation). On page 331 of the EIA report, it is in fact pointed out that dredging leads to the destruction and disturbance of benthic communities, directly impacting the food source of waterbirds. However, the EIA report points out that biotic seabed communities are very likely to recover over time (section 6.2 of the EIA report). Second, the transparency of the water in the working area is also temporarily reduced, which in turn affects the seabed biota and fish fauna and thus the food source of birds as well as their feeding efficiency. Still, the main sedimentation of suspended solids remains in the vicinity of construction activities, at a distance of a couple of kilometres from the activity, and the impact does not differ from the natural concentration levels (section 6.1.4 of the EIA report). In addition, mitigation measures have been set out for the protection of fish fauna, upon the implementation of which, construction works are not expected to have a significant negative impact on the fish fauna (section 6.3 of the EIA report), so the food source of fish-eating birds will not change significantly. Third, due to the visual and acoustic disturbance resulting from the construction of wind turbines (and foundations), waterbirds may begin to avoid wind farm areas or areas adjacent to them, even though these have been their traditional feeding areas. However, the impact of visual and acoustic disturbance during construction manifests itself simultaneously in a rather small area. On the other hand, the construction takes a long time and, consequently, the disturbances are ultimately long-term. This may mean that important areas may also be avoided (at least partially) in the longer term. Fourth, wind turbine foundations may often act as artificial reefs, which can lead to an increase in the food source and food availability, which in turn can attract seabirds to the vicinity of wind turbines (p 315). However, such changes in the ecosystem can lead to unpredictable changes. All in all, the EIA report concluded that although the impact during construction (and thereby the special use of water) on the food supplies and feeding conditions of birds is negative, the impact is still at an insignificant level. Important choice of construction site and correct organisation of vessel traffic (section 10.5 of the EIA report).

3.4.4.4. The EIA report is based on the assumption that seabed communities will recover, however, on hard substrates (reefs), there is a loss of communities (see section 3.4.2.4) and the loss and disturbance of reefs is underestimated (see section 3.4.2.5). Reef biota is characterized by high biological productivity, which provides a good food source for birds. For example, one of the characteristic species of reefs is the common mussel, which is one of the most important food item for diving ducks, eg the long-tailed duck. Thus, for **common scoters and long-tailed ducks (as well as other feeding birds), the impact of special use of water can also be significant if the destruction of the reef habitat cannot be avoided**. After the approval of the EIA report, a flight count of seabirds has been carried out, among others, in Hiiumaa on 16 April 2024, for which the report ‘Arctic waterbird flight count along the coast of Estonia’ [Arktiliste veelindudel lennuloendus Eesti rannikumerel’] [59](Waterbirds Report) is available in the

Environmental monitoring database (KESE). The Waterbirds Report points out that the abundance of species that gather in Estonia during winter is influenced by the winter climate — since 1990, so-called mild winters have become more frequent, which is why more and more birds remain in Estonian waters to winter, instead of migrating to the southern Baltic Sea or the North Sea. On page 4 of the Waterbirds Report it is stated that 'the importance of the Estonian coastal sea for waterbirds lies primarily in its geographical location, as it intersects directly with the Eastern Atlantic migration route used by most Arctic waterbird species on their way from nesting areas to wintering areas. The marine shallows in Estonian coastal waters are known to be suitable migratory staging areas for waterbirds, where they replenish fat stores for the onward migration. The same shallows are also often important moulting and wintering areas. Since the diving depth of waterbirds is limited, they mainly inhabit shallow marine areas and shallows with a depth below 30 m. For fish-eating waterbirds depth is less of a limiting factor as benthic feeders, but they also do not spread to marine areas deeper than 50 m.' Page 23 of the Waterbirds Report specifies that 'In the spring of 2024, the common scoter was the most numerous species counted from a plane, a total of 448,410 individuals, which makes up about 50% of the total population of the migratory route. The total number of common scoter trans-migrating from us is estimated at 687,000 to 815,000 individuals. The resulting point assessment of the number of common scoters stopping in Estonia was about 3.5 million birds, which is several times higher than the current population estimate (Table 5 of the report).' The staging areas of common scoters and long-tailed ducks show that sensitive areas are especially around Hiiumaa. **Thus, the surroundings of Hiiumaa are important for benthic feeding birds and therefore it is important to prevent the loss of reefs. It is not possible to avoid the loss of reefs in the TP2-3 area during the special use of water (see section 3.4.2.6). Thus, based on the Waterbirds Report and the refined principles for assessing the loss of seabed habitats (see section 3.4.2.4), a significant negative impact on the food source and feeding conditions of birds in area TP2-3 is not excluded. In areas TP1 and TP4, measures relating to seabed habitats must be complied with (see sections 3.6.4.-3.6.9) and the spread of suspended solids should be monitored (see section 3.6.10). The EIA report also sets out the implementation of relevant measures (see sections 3.6.21.-3.6.22).**

3.4.4.5. The risk of oil spills associated with the activities applied for in the environmental permit is not expected to be very high and the negative impact can be mitigated by rapid and prompt elimination of the pollution. The EIA report outlines measures to prevent the occurrence and spread of oil spills. The measures are set out in the environmental permit. **Based on the above, upon implementing measures (see sections 3.6.23.-3.6.26), the proposed special use of water will not cause a risk of accident and thereby will not have significant impact on bird fauna.**

3.4.4.6. The environmental permit grants the right for special use of water, and the special use of water has no purpose in its own right without the construction of a potential new wind farm. Although this permit procedure concerns construction activities below the water level, the purpose of the construction work is to install wind turbines, so the broader objective must not be completely overlooked. Since, according to the environmental permit application, the wind turbines would be partly located on the Põõsaspea-Tahkuna migration route of waterbirds, there is both a barrier effect and a risk of collision with the wind turbines. The EIA report has marked certain knowledge gaps (in determining migration corridors the assumed basic migratory flow

was adhered to, no modelling of the migratory flow of land birds was performed) and mapped a further need for more detailed research (1-2 year radar survey to determine accurate migratory flows, migration flow modelling of land birds) (EIA report p 335). Additional surveys are needed to determine the exact location of wind turbines within the development area, determine the operating mode (need for shutdown) and identify other measures (extinguishing lights, using coloured lights) in order to exclude significant negative impacts. Thus, it is appropriate to conduct radar surveys of birds and to model the migratory flow of land birds in the next stage. However, the imposition of the aforementioned measures in this environmental permit is not appropriate, since they relate to the operational stage of the wind turbines and not to the subject of the environmental permit.

3.4.4.7. In addition, new circumstances have emerged since the approval of the EIA report. The Waterbirds Report prepared in 2024 and the lesser white-fronted goose protection action plan [60] approved by order No 1-3/25/219 of the Environmental Board on 20 June 2025 have been approved. The Waterbirds Report shows that the apparent discrepancy between the locations of the planned wind turbines and the location of the birds continues to exist. According to the action plan for the protection of Europe's most threatened Anseriformes, the lesser white-fronted goose, the species is also threatened by power lines and wind farms and, in particular, the development of wind farms in coastal and marine areas on the established migratory route of the lesser white-fronted goose should be avoided. According to the action plan, an important migration route for the species also runs north-south across Hiiumaa. To mitigate the potential impact, it is possible to abandon turbines on the migration route of the species. Another option is to shut down the turbines at a time when the species is migrating further north. The average first arrival in Estonia in 2020-2024 was on April 13. The average length of the stopover period was 15 days, the birds continued to migrate northward between 27 and 29 April. Given the increasingly early springs, it is possible that this time will shift to an earlier time, but it may also be later in the cold spring. **Thus, when planning surveys and determining the locations/operating modes of wind turbines, both the Waterbirds Report and the lesser white-fronted goose action plan must be taken into account in the stages that follow.**

3.4.4.8. **In conclusion, it is not possible to avoid the loss of reefs in area TP2-3 during special use of water (see section 3.4.2.6), and thus a significant negative impact on the food source and feeding conditions of birds in area TP2-3 cannot be excluded. Mitigation measures can be applied in areas TP1 and TP4 (sections 3.6.4.-3.6.10., 3.6.21.-3.6.22).** The installation and operation of wind turbines can be decided at subsequent stages, taking into account, inter alia, the proposals for the establishment of nature conservation areas, the Waterbirds Report and the lesser white-fronted goose action plan. Since the environmental permit does not regulate the operation of the wind farm, it is necessary to put appropriate measures (seasonal shutdown of wind turbines, precise layout scheme, etc) in place in subsequent stages when relevant information becomes available. However, in view of the Waterbirds Report, the lesser white-fronted goose action plan, and the possible establishment of the Northern Shoales nature conservation area (see section 3.4.8.3), it cannot be excluded that the area TP1 is without merit. More detailed research is needed.

3.4.5. Impact on bats

3.4.5.1. On page 13 of the North West Estonia Offshore Wind Farm EIA report, it was pointed out that the impact of wind turbines on bats lies in their possible collision with wind turbines during migration (since individuals migrating to Finland can pass through the wind farm areas) and the resulting death. As a mitigating measure wind turbines can be shut down during migration, and if implemented, there is no reason to believe that the establishment of the North West Estonia Offshore Wind Farm in the proposed location and in the planned scope will negatively impact the number of bats and endanger the functioning of migration routes. To determine the migration of bats, it is necessary to conduct a study of migration routes. 3.4.5.2. The works proposed under the environmental permit will not have an impact on bats. Bats are known to fly over the sea sparsely and also on a relatively wide front during migration, so there is no reason to expect that some change in the number and locations of wind turbines would significantly alter the impact on bats (unlike onshore wind farms). Moreover, the impact can be almost completely mitigated by stopping the turbines during periods of high activity of bats. Surveys are necessary to identify the need for mitigation measures, but they should be carried out in subsequent stages. It is not appropriate to impose measures in this environmental permit, as it depends on further surveys. The installation and operation of wind turbines can be decided after more detailed surveys.

3.4.6. Impact on marine mammals

3.4.6.1. On page 14 of the North West Estonia Offshore Wind Farm EIA report, it was pointed out that neither the dredging work nor the wind turbine or its foundation as a physical object is an obstacle to the movement of seals, more important is the impact of noise and environmental quality associated with the construction, operation and maintenance of wind turbines. Relying on the available data and knowledge, it was pointed out that all impacts remain at a negligible negative level, both at the construction and operational stages.

3.4.6.2. Descriptor 1 of the MSFD status assessment is biological diversity, for which the status of seals plays an important role. According to the MSFD status assessment, good environmental status has not been achieved for marine mammals.

3.4.6.3. According to the environmental permit application, noisy works such as ramming piles or blasting are not planned during the special use of water. Thus, seals could be disturbed by the noise of ships and suspended solids during construction. On page 345 of the North West Estonia Offshore Wind Farm EIA report, it was pointed out that the disturbance during construction in the form of spread of suspended solids and the decrease in water transparency probably does not impact seals significantly, as underwater transparency is generally limited in the Baltic Sea and the vision of seals is of little significance underwater. Findings made in the Lääne-Saare EIA report [61], Saare-Liivi EIA report [62] and the Liivi EIA draft report [63] show that works related to the installation of gravity base foundations do not impact seals significantly. **Thus, no negative impact by special use of water requested in the environmental permit application can be foreseen for marine mammals.**

3.4.6.4. However, there are a number of haul-out sites of seals in the north-west Estonian marine

area, but the conclusions of the wind farm EIA report are based on an expert assessment, without conducting more detailed surveys. On page 346 of the EIA report, it is stated that in the case of both the grey seal and the ringed seal, it is not clear today whether the northern Hiiumaa sea is crossed by regular migratory routes of seals. On page 158 it is emphasised that the existence of one completely unexplored unit of ringed seals in the western Gulf of Finland is possible. Thus, the North West Estonia Offshore Wind Farm EIA report states the following: 'In connection with the establishment of a wind farm, it is necessary to carry out surveys on the use of the marine area by seals and to monitor the number of seals on the haul-out sites in the same area at all times of the year. Surveys must be carried out during the designing of the wind farm and their results must be considered in the design. If the results of the survey indicate the presence of key habitats in the development areas of the proposed wind farm, further assessment of the impact on seals and, if necessary, the development of additional measures in addition to the mitigation measures provided under the EIA is needed.' The EIA report points out that the activities are not adversely affecting the protection objective related to the seals in the Väinamere area of conservation, however, it is necessary to specify the more general movement of seals and habitat use in the project area. Also unclear is the potential impact on the areas proposed for the establishment of nature conservation areas where the ringed seals and grey seals constitute one of the protection objectives according to the proposal (see sections 3.4.8.1., 3.4.8.3.). The precautionary principle is important in the case of the North West Estonia wind farm, because the wind farm restricts the northern exit of one marine system (Väinameri) to the Baltic Sea and is located at the contact area of the three southern populations of the ringed seal, the status of which was assessed as poor by HELCOM (EIA report p. 347).

3.4.6.5. Accordingly, it is possible to grant an environmental permit without further studies, but it is appropriate, in accordance with the precautionary principle, to implement mitigation measures specified in section 10.7 of the EIA report to minimise disturbance at the time of special use of water (ie during construction). In order to clarify the mitigation measures during construction, pre-construction surveys are considered necessary in the EIA report (section 11.1.5 of the EIA report). The mitigation measures and monitoring obligation is set out in the environmental permit (see sections 3.6.17 to 3.6.20 and 3.7.15). As a result of the surveys, it is possible to adjust the mitigation measures.

3.4.7. Impact on Natura 2000 sites and protected natural objects

3.4.7.1. In the North West Estonia Offshore Wind Farm EIA report, it was pointed out that the wind park and its construction have no impact on the integrity of the Natura sites and that there are no adverse impacts on the status of the habitat types and species that are the protection objective of the sites. 3.4.7.2. In the North West Estonia Offshore Wind Farm EIA report, it was pointed out that wind turbine alternatives 1 and 2 might have a significant negative impact on the Apollo shallow nature conservation area due to the disturbances caused by construction work to the birds stopping there. There are no significant negative impacts on other protected natural objects in the region. A small negative impact may befall the Väinamere limited-conservation area in the form of noise disturbance to the birds during the construction and operational stage, and the Kõrgessaare-Mudaste limited-conservation area, Paope nature conservation area, Nõva-

Osmussaare limited-conservation area and Väinamere limited-conservation area during the operational stage in connection with the potential disturbance arising from the wind farm or the death of individuals in the wind farm. 3.4.7.4. The application for an environmental permit was based on alternative 4 of the EIA report. The environmental permit grants the right for dredging and placement of solid substances. These works do not impact Natura 2000 sites and existing protected areas which means that negative impacts on Natura 2000 sites are excluded when an environmental permit is granted.

3.4.8. Impact on areas proposed for the establishment of nature conservation areas

3.4.8.1. The proposed area for the establishment of the Western Hiiumaa nature conservation area has an approximate area of 382.5 km² and borders the development area TP4. According to the proposal to establish the Western Hiiumaa nature conservation area, the purpose of the conservation area is to protect:
* the marine area and its biota;
*internationally important staging area for migratory bird species: the long-tailed duck (*Clangula hyemalis)*, the common eider (*Somateria mollissima*), the velvet scoter (*Melanitta fusca*) and the common scoter (*Melanitta nigra*);
* an important transmigratory area for waterbirds;
* habitat of the grey seal (*Halichoerus grypus*);
* habitat types referred to in Annex I to the Habitats Directive. These are underwater sandbanks (1110) and reefs (1170).
As a justification for the protection, the proposal states that the site is an important staging area for waterbirds. The most important species are: the long-tailed duck, common eider, velvet scoter and common scoter, the number of which in the area exceeds the thresholds of the IBA criteria [64]. However, there are many other bird species present in the area. The area is one of the most important waterbird migration bottlenecks in Estonia [65], [66], [67]. The erection of construction works above the water level in the area would cause a high risk of collision and a barrier effect. In addition, the area also includes the habitat types listed in Annex I to the Habitats Directive: reefs (1170) and sandbanks which are slightly covered by sea water all the time (1110), which are important feeding areas for birds.

3.4.8.2. The approximate area of the area proposed for the establishment of the Northern Hiiumaa nature conservation area is 574 km² and overlaps with development area TP2-3 by 39.9 km² (overlap 7%, the area TP 2-3 lies 100% on the area proposed for the establishment of the Northern Hiiumaa nature conservation area). According to the proposal to establish the Northern Hiiumaa nature conservation area, the purpose of the conservation area is to protect:
* the marine area and its biota;
* internationally important staging area for species listed in Annex I to the Birds Directive, the Steller's eider (*Polysticta stelleri*) and the smew (*Mergellus albellus)* and the globally threatened migratory bird species: the long-tailed duck, the common eider and the velvet scoter;
* an important transmigratory area for land and waterbirds;
* habitat types: sandbanks which are slightly covered by sea water all the time (1110) and reefs (1170).
As a justification for the protection, the proposal states that the site is an important staging area

for waterbirds. The most important species are: the long-tailed duck, the steller's eider, the common eider, the velvet scoter and the smew, the number of which in the area exceeds the thresholds of the IBA criteria [68]. However, there are many other bird species present in the area. There is a strong overflight of waterbirds over the area during migration [69], [70]. It is also an area that is a migration bottleneck for land birds in spring and autumn. The erection of construction works above the water level in the area would cause a high risk of collision and a barrier effect. In addition, the area also includes the habitat type reefs (1170), listed in Annex I to the Habitats Directive, which are, among others, important feeding areas for birds. The area includes reefs in an area of 24.85 km² (186 km² in the total area proposed for the nature conservation area, ie approx 13% of reefs are located in the development area) and sandbanks which are slightly covered by sea water all the time (1110), encompassing 0.002 km² in the area overlapping the proposed area and the development area (59 km² in the total area proposed for the nature conservation area). The area lies in the migration zone of the ringed seal (*Pusa hispida,* protection category II).

3.4.8.3. The approximate area of the proposed area for the establishment of the Northern Shoales nature conservation area is 143 km² and overlaps with the development area TP1 by 26 km² (18%). According to the proposal to establish the Northern Shoales nature conservation area, the purpose of the conservation area is to protect:

* the marine area and its biota;
* an internationally important staging area for the long-tailed duck, a globally threatened migratory bird species;
* habitat types: sandbanks which are slightly covered by sea water all the time (1110) and reefs (1170).
* the feeding and migratory areas of the ringed seal (*Pusa hispida*), a protection category II species.

As a justification for the protection, the proposal states that the site is an important staging area for waterbirds. The most important species is the long-tailed duck, the number of which in the area exceeds the thresholds of the IBA criteria. There are also other bird species present in the area. There is a strong overflight of waterbirds and land birds over the area during migration [71], [72]. The erection of construction works above the water level in the area would cause a high risk of collision and a barrier effect. In addition, the area includes the following habitat types listed in Annex I to the Habitats Directive: reefs (1170), encompassing 0.47 km² in the area overlapping the proposed area and the development area (18.7 km² in the total area proposed for the nature conservation area, 4.28 km² in the total development area [73]) and sandbanks which are slightly covered by sea water all the time (1110), encompassing 2.94 km² in the area overlapping the proposed area and the development area (6.8 km² in the total area proposed for the nature conservation area, 4.09 km² in the total development area). There are also ringed seal feeding and migration areas in the area.

3.4.8.4. **Birdlife Estonia has proposed zoning these protected areas into a conservation zone where human activities and the use of natural resources are prohibited,** with the exception of individual activities listed. In view of the protection objectives of the areas, the following proposals, among others, have been made with regard to the protection procedure:

Building construction works. The most serious problems associated with the building of construction works are related to the intentions to build wind farms (including the fact thatconstruction often also involves special use of water (dredging, see next section, as well as the placement of solid substances)). Under the foundations of the construction works, existing seabed communities are destroyed. On the other hand, the foundations themselves can serve as a substrate for species that prefer hard soil, leading to the formation of a food web different from the natural one [74]. The wake effect that is caused by a construction work can alter the movement of water and sediments. The construction stage may be accompanied by the same negative impacts as dredging. Birds in particular are at risk: disturbing and repellent impacts, loss or alteration of habitats (including feeding spots), collisions with wind turbines and obstacles to flight and migration routes (barrier effect). **In conclusion, the installation of new construction works, with the exception of the installation and maintenance of construction works necessary for the safety of navigation at sea, should be prohibited in a protected areas.**

Extraction, dredging and dumping have a strong negative impact on the seabed and its communities. In addition to the direct removal of sediments and the loss of seabed biota, the concentration of suspended solids in the water, which spreads outside the direct working area, increases. Sedimentation of suspended solids impacts seabed communities and reduces water transparency with relevant consequences (ie impact on the feeding efficiency of birds). Extraction, dredging and dumping can lead to a pollution threat. **Extraction, dredging and dumping should be prohibited in the protected area,** except dredging for the purpose of ensuring the safety of navigation with the permission of the manager of the protected area.

3.4.8.5. The procedure for placing a natural object under protection is initiated and the authority conducting the procedure is appointed by the Ministry of Climate (subsection 1 of § 9 of the Nature Conservation Act). The authority competent to initiate the proceedings for placing under protection will arrange for an expert assessment of the justification and purposefulness of placing the natural object under protection and assessment of the purposefulness of the planned restrictions (subsection 3 of § 8 of the Nature Conservation Act). Although the procedure for proposals for these protected areas have not yet been initiated, a formal proposal for the establishment of areas has nevertheless been submitted. As the establishment of the nature conservation area is currently still in the proposal stage, it is important to analyse the relevance of the proposals on the basis of the information available and subsequently to include the proposals in the consideration for the granting of an environmental permit. The EIA report does not specifically address the impacts on the areas proposed for the establishment of nature conservation areas and the protection objectives set out in the proposal. The EIA report deals separately with impacts on the bird fauna and seabed habitats in the development area.

3.4.8.6. According to subsection 1 of § 7 of the Nature Conservation Act, the prerequisites for placing a natural object under protection are that the natural object is under risk, is rare or typical, has scientific, historic, cultural or aesthetic value or that is subject to protection under an international agreement. According to subsection 2 of the same section, a natural object is also placed under protection where this is necessary for the implementation of the Habitats Directive or the Birds Directive. **Prerequisites exist for said areas due to the presence of endangered**

species and marine habitats in the areas. The areas have also been counted among the IBAs. As a result of its international obligation, the State of Estonia is obliged pursuant to the Birds Directive to protect regularly occurring migratory bird species (eg long-tailed ducks) and the habitat types specified in Annex I to the Habitats Directive (reefs and sandbanks which are slightly covered by sea water all the time).

3.4.8.7. Pursuant to § 1 of the Nature Conservation Act, the natural environment is protected by promoting the preservation of biodiversity through ensuring the natural habitats and the populations of species of wild fauna, flora and fungi at a favourable conservation status. Pursuant to subsection 1 of § 3 of the Nature Conservation Act, the conservation status of a natural habitat will be taken as favourable when its natural range and areas it covers within that range **are stable or increasing**, and the specific structure and functions which are necessary for its long-term maintenance exist and are likely **to continue to exist for the foreseeable future**, and the conservation status of its typical species are favourable. Pursuant to subsection 2 of § 3 of the Nature Conservation Act, the conservation status of a species will be taken as favourable when population dynamics data on the species concerned indicate **that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.**

3.4.8.8. The values in need of protection within the proposed areas for the establishment of nature conservation areas are: reefs and underwater sandbanks. **At the same time, the pan-Estonian conservation status of reefs has been assessed as unfavourable and insufficient** (see section 3.4.2.2.). In the case of species, it must be assessed whether the need for additional protection of the occurrence areas is absent, small, medium or great. The assessment must take into account the protection category under the Nature Conservation Act, the Red List threat assessment, the conservation, representativeness and extent of the species' habitats in the proposed area.

The **long-tailed duck** is a species with decreasing numbers that is included in the list of threatened species at the global level (IUCN category ‘vulnerable’). In Estonia, the wintering population is assessed as **near threatened** (NT) and the migratory population as endangered (EN) (EELIS; Species Threat Assessments). According to the ornithologists at the Estonian University of Life Sciences, about 25% of the total long-tailed duck’s Northern Europe/Western Siberia population stops in Estonian waters [75], which places a great responsibility on the Estonian state for the preservation of the species. The Western Siberia/Northern Europe population of the long-tailed duck is estimated at 1.6 million. The number of birds wintering in the Baltic Sea has been estimated at 1.4 million, while the number of long-tailed ducks in Estonia in winter has been estimated at 100,000—500,000 and the number is decreasing. Since 1995, the population of long-tailed ducks wintering in the Baltic Sea has fallen by 65.3%. The threshold for an internationally significant staging area (at least 1% of the biogeographic population regularly stops in the area) was lowered to 16,000 individuals [76]. Thus, all areas where at least 16,000 long-tailed ducks are stopping meet the criteria of wetlands of international importance (Ramsar area), important bird area (IBA) and Natura 2000 bird area. In addition, the International Single Species Action Plan for the Conservation of the Long-tailed Duck aims to designate and maintain a network of

protected areas, covering all important sites throughout the lifecycle, in order to achieve favourable status for the species. The long-tailed duck's staging areas in Estonian waters are of great importance for the Western Siberia/Northern Europe population of this bird species as a whole. The International Single Species Action Plan for the Conservation of the Long-tailed Duck [77] considers the development of infrastructure, including offshore wind farms, to be a medium threat factor for long-tailed ducks, which can lead to a relatively slow but significant decline in population numbers. It is stated that many of the areas favoured for development (offshore shallows) overlap with feeding areas important for long-tailed ducks. The Baltic Sea is an important wintering area for the long-tailed duck, and **as a benthic feeding bird, the favourable status of offshore shallows is very important for them.**

The Steller's eider is a globally threatened species (IUCN category VU, vulnerable). In Estonian waters, the Steller's eider is found in winter and during migration, in both cases the species has been assessed as endangered (EELIS; Species Threat Assessments). The Steller's eider is listed among the species in Annex I to the Birds Directive, and in Estonia the species has been assigned protection category II. Ornithologists at the Estonian University of Life Sciences estimate that 20% of the Steller's eider's biogeographic population stops in Estonian waters.

The common eider is a globally threatened species (IUCN Red List category: **near threatened** and European category: **endangered**). In Estonia, the migratory population has also been assessed to be endangered (EELIS; Species Threat Assessments). Ornithologists at the Estonian University of Life Sciences estimate that 3.9% of the common eider's biogeographic population stops in Estonian waters (Luigujõe 2016).

The velvet scoter is a globally threatened species (IUCN category VU, **vulnerable**). The breeding population of the species is assessed in Estonia as being in critical condition, the wintering and migrating population as vulnerable (EELIS; Species Threat Assessments). The velvet scoter is a protection category II species in Estonia. According to the ornithologists at the Estonian University of Life Sciences, 20% of the velvet scoter's total Northern Europe/Western Siberia population stops in Estonian waters. In the International Single Species Action Plan for the Conservation of the Velvet Scoter, a high priority action is the designation and maintenance of a network of protected and managed sites, covering all important sites throughout the velvet scoter lifecycle [78].

The **smew** is listed among the species in Annex I to the Birds Directive, and in Estonia the species has been assigned protection category II. Although the status of the species in Estonia during migration and winter has been assessed as **favourable** (EELIS; Species Threat Assessments), we have an obligation under the Birds Directive to protect the habitats of the species, eg through the creation of protected areas. Ornithologists at the Estonian University of Life Sciences estimate that 7.5% of the smew's total biogeographic population stops in Estonian waters.

The status of the **common scoter** is favourable, but the **protection of offshore shallows is important to it to ensure its continued favourable status.** The common scoter is also one of our offshore species of responsibility. According to the ornithologists at the Estonian University

of Life Sciences, 21.6% of the Northern Europe/Western Siberia population stops in our waters.

The marine area of north-west Estonia is a bottleneck for bird migration. According to the Estonian Maritime Spatial Plan[79], the area has been designated as 'of very high international importance as a staging area for waterbird migration' (it meets the criterion – the migration of more than 500,000 waterbirds has been detected in one migration season) and marked as a sensitive area. The flight count of Arctic waterbirds on the coast of Estonia in 2024 showed that common eiders were widespread in particular on the coast of Hiiumaa, the highest concentrations of common scoters were in the surroundings of Hiiumaa, and the surroundings of Hiiumaa were also important for the long-tailed duck. **Thus, the areas proposed for the establishment of nature conservation areas are important for threatened bird species and the areas have seabed habitats with unfavourable status. Based on the above, the proposals have a perspective for further analysis.**

3.4.8.9. **The negative impact of wind farm development manifests itself in the reduction of the area of the natural habitat type (in particular reefs) (which, in turn, leads to the reduction of the food source of birds)**, the creation of a collision risk for birds and the displacement from the preferred feeding areas of the region (feeding and staging area). A study undertaken at Nysted wind farm, Denmark, showed that long-tailed ducks did almost not use the area within the wind farm and that reduced habitat use and displacement distances of up to two km from the wind farm footprint occurred for 5–6 years after wind farm construction [80]. Cumulative habitat loss (wind farm area together with disturbance impact area) may be significant, especially when several large developments are established in offshore habitats suitable for long-tailed ducks [81]. The basic study of Estonian maritime spatial plan addresses activities impacting birds, dividing them into short-term and long-term impacts. The impacts of activities with short-term effects (such as disturbance caused by works conducted in marine areas or decreased water transparency) can be reduced by timing the activities. The construction of wind farms is considered to belong among activities with a long-term (or irreversible) impact. It is concluded in the survey that in sensitive areas (which include the said area), planning of activities with long-term impacts should be avoided if further in-depth studies are not conducted and necessary mitigation measures are not taken. However, it is recognised that previous experience shows that the establishment of offshore wind farms renders areas unusable as staging areas for more sensitive waterbird species (such as loons and several benthic feeding species), and there are no effective mitigation measures. **Thus, the protection objectives set out in the proposals for the establishment of nature conservation areas in relation to construction or dredging are not unjustified.**

3.4.8.10. According to the initial assessment, the prerequisites for the areas to be placed under protection are in place and, in particular, given the status assessment of the reefs, the species threat assessments and trends in abundance, protection would also be appropriate from the perspective of environmental protection. Thus, the planned nature conservation areas are neither unjustified nor without prospects from the point of view of the protection of reefs and birds stopping/staging in offshore areas, but are rather promising and further detailed analysis is required and further expert assessments and imposing of protections is highly likely.

3.4.8.11. Based on the above and the fact that the proposed development areas overlap to a greater or lesser extent with the areas proposed for the establishment of the Western Hiiumaa, Northern Hiiumaa and Northern Shoales nature conservation areas (see also section 3.2.4.3), it is appropriate that this order address the possible impact of the special use of water on the values mentioned in the proposal, taking into account also the conditions of the protection procedure set out in the proposal. The building of construction works on the seabed will primarily damage marine habitats, which in turn are associated with bird fauna important to the area, since marine habitats also provide an important food source for birds. The special use of water causes direct loss of reefs but also a large disturbance area (the entire development area). As a result of special use of water work, seabed habitats are not preserved in their natural state and the food source of birds deteriorates. According to the protection objectives set out in the proposals for the establishment of nature conservation areas, the special use of water and the construction of civil engineering works should be prohibited in the areas of Western Hiiumaa, Northern Hiiumaa and the Northern Shoales. **As the areas are likely to be placed under protection, the proposed special use of water within area TP2-3, and partly within area TP1, would have a significant negative impact on reef habitats more broadly. However, in area TP1, it is possible to avoid reefs during the special use of water (see section 3.4.2.6). Given the loss and disturbance of seabed habitats, the special use of water in the area TP2-3 would threaten the achievement of environmental objectives in the areas proposed for the establishment of the Northern Hiiumaa nature conservation area.**

3.4.8.12. Although this permit procedure concerns the special use of water solely below the waterline, the wider objective is the installation of wind turbines, which is why this wider purpose must also be addressed in the granting of the permit. The subsequent construction of wind turbines above the water line creates displacement, resulting in the displacement of birds from important habitats. Given the current knowledge about the impacts of wind farms on values and the practice applied in Estonia, according to which the construction of wind farms is not allowed in areas currently protected, there is no reason to believe that the construction of wind farms and protected areas could overlap. It is also necessary to take into account the adjacent impact on protected values resulting from the establishment of the development area, so it may be necessary to leave an adequate buffer between the protected area and the development area. Although the proposed area of the Western Hiiumaa nature conservation area does not overlap with the development area of the wind farm, but borders on the development area, the development of the wind farm may still impact the protected values of Western Hiiumaa. In the case of the Northern Shoales, too, it may be necessary to leave a buffer. The circumstances relating to the installation and operation of wind turbines must be ascertained in the following stages.

3.4.9. Impact on climate

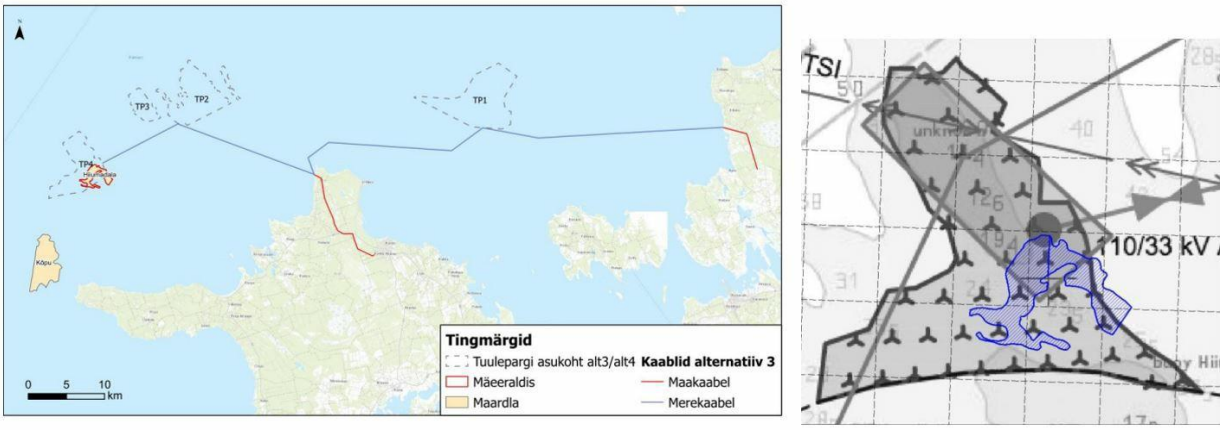
According to the North West Estonia Offshore Wind Farm EIA report, the expected capacity of the North-West Estonian offshore wind farm is up to 1,100 MW. The average annual productivity is the developer's business secret, but assuming an average annual productivity of 40%, which is a rather modest assumption for offshore wind turbines, the approximate maximum electricity

production is 3.8 TWh (3,800 GWh) and the calculated savings of CO_2 is 3.5 million tons. Thus, the completion of the proposed offshore wind farm would contribute to the preservation and growth of total wind energy production in Estonia.

3.4.10. Impact on mineral resources and deposits

3.4.10.1. The North West Estonia Offshore Wind Farm EIA report states that development area TP4 overlaps (see figure 4) with the Hiiu Shoal sand deposit and the sand quarry, where there is a valid environmental permit KL-518528 until 3 February 2053 for sand extraction.

3.4.10.2. Wind turbines are planned for the area TP4. According to figure 9 of the report of the North West Estonia Offshore Wind Farm Sediment Survey, for example, in the case of alternatives 1 and 2, four wind turbines may be located on the deposit. With alternative 4, fewer wind turbines are likely planned for the area, so the potential overlap may be lower. The EIA report states that it will be possible to build wind turbines in the area once extraction has finished. As a rule, the mineral resource must also be exhausted. If the mineral resource has not been exhausted, the activity is possible if coordination or permission with the relevant content has been obtained on the basis of subsection 1 of § 15 of the Earth's Crust Act. In the planning of activities, it is also necessary to ensure access to the mineral resource and the preservation of its extractability.



Symbols
— — wind farm location alt3/alt4
Cables alternative 3
— underground cable
— submarine cable

mining claim
deposit

Figure 4. On the left: alternative 4 of the EIA report and the mining claim and deposit (figure 184 of the EIA report); in the case of alternative 1/2, the potential location of the wind turbines in the deposit (EIA sediment report, figure 9).

3.4.10.3. The North West Estonia Offshore Wind Farm EIA report explains that special use of water is very closely related to the construction of a structure. On pages 51-52 of the EIA report,

it is described that soil dredged from the seabed is stored and kept on platforms specially built for the transport of material while the foundation base and foundation are laid on the seabed, then the dredged soil is used to fill the foundation. When laying cables inside the offshore wind farm, the cable trench is first dredged, and only then is the cable laid and the trench filled. **Thus, the primary activity potentially impacting the status and use of the earth's crust is precisely dredging, which takes place on the basis of an environmental permit, while a significant special use of water cannot take place before other construction work.**

3.4.10.4. In its letter of 16 July 2025 [82], the Estonian Geological Survey pointed out that area TP4, the location for the special use of water, partially overlaps with blocks 1 and 3 of the construction sand active reserve of the Hiiu Shoal sand deposit (register card No 40 of the mineral resources register), with 2 blocks of the active consumption reserve of aggregate sand and the mining claim and the mine service plot under environmental permit No KL-518528. Pursuant to clause 3 of subsection 2^1 of § 14 of the Earth's Crust Act, the Ministry of Climate or, upon authorisation of the Minister of Climate, the state authority responsible for ensuring geological competence of the state may allow the construction of a renewable energy construction: in the area of a deposit, concerning which there is no valid extraction permit or geological exploration permit and no applications for an extraction permit or geological exploration permit for such mineral resources have been submitted and provided that the Ministry of Climate, where they are not the issuer of the permit provided for in this subsection, has approved such activity, for a fixed term of up to 35 years. **Thus, in the area of the Hiiu Shoal sand deposit overlapping with the existing Hiiu Shoal sand quarry mining claim, renewable energy constructions is not permitted.** The Estonian Geological Survey is of the opinion that an environmental permit does not give the right to activities impacting the condition and use of the earth's crust. The right to use the marine area is granted by a superficies licence and the right to build is granted by a building permit. Based on the above and the fact that the special use of water is necessary for construction work, the Environmental Board sets the appropriate measures (see section 3.6.27) and secondary conditions (see section 1.4.5) regarding the environmental permit. The measures are expected to be effective as they help to ensure the protection of deposits and mining claim and the exploitation of the mining claim in accordance with the intended purpose.

3.4.11. Impact on underwater archaeological cultural values

3.4.11.1. As part of the North West Estonia Offshore Wind Farm EIA report, the known cultural monuments in the marine area were mapped. Comparing the potential location of the wind turbines provided in the application with the location of cultural monuments, the overlap can only occur in the area TP1 concerning shipwreck *Akula*. Cultural value could be damaged if dredging is carried out directly on it or a wind turbine or cable is installed on top of it. In addition, while carrying out work in the protection zone, the impact may be manifested through the spread and sedimentation of suspended solids on the monument. The environmental permit regulates special use of water: dredging in preparation of potential foundation sites and preparation of cable routes, and placement of solid substances below average water level. Thus, the special use of water can also have an impact on cultural monuments. It is prohibited to anchor, trawl, dredge and dump solid substances on underwater monuments (subsection 6 of § 52 of the Heritage Conservation

Act).

3.4.11.2. In section 11.1.6. of the EIA report, surveys were set out for the identification of archaeological objects that have not yet been discovered. Section 10.9 of the EIA report specifies that cooperation with the National Heritage Board is necessary in the case of cultural monuments. The EIA report stresses that during the construction and operation of the wind farm it must be ensured that cultural monuments are preserved and that the activities do not cause damage to them. In addition, section 10.9. of the EIA report refers to the need for mitigation measures in relation to oil spills and blasting operations.

3.4.11.3. In its letter of 14 May 2025 [83], the National Heritage Board pointed out that the environmental permit must certainly include measures relating to cultural monuments and specified the circumstances related to monitoring. Accordingly, a corresponding survey requirement is added to the environmental permit (see sections 3.7.12.-3.7.14). The results of the surveys will provide the basis which must be relied on for determining the precise location of the wind turbines and the planning of the cabling within the wind farm. The locations of wind turbines, the cables inside the wind farm, and the locations of historic shipwrecks and monuments and their protection zones must not overlap. The appropriate measure is added to the environmental permit (see sections 3.6.28. and 3.6.29.) and the measures outlined in the EIA report in relation to oil spills and blasting operations. The measures are expected to be effective as they help to ensure the preservation and protection of cultural monuments.

3.4.12. Impact on other fields

3.4.12.1. According to the North West Estonia Offshore Wind Farm EIA report, the impact on navigation and radar systems is primarily related to the operational stage of the wind farm. Low-frequency sound, infrasound, and ambient airborne noise are also associated with the wind farm's operational stage. The visual impact of the wind farm is related to the towers of the wind turbines and the movement of the blades during the operational stage. Since, within the framework of the environmental permit, during the construction of the wind farm, the preparation of foundation sites, the embedding of cables and the placement of solid substances below the average water level are possible, these fields are not impacted by the activities proposed in the environmental permit and it is not appropriate to impose measures on the environmental permit.

3.4.12.2. Construction is carried out at a distance of at least 12 km in the sea, so the noise during construction does not have a significant impact on people. The special use of water also does not have a significant negative impact on economic development and employment.

3.4.12.3. The special use of water does not entail the generation of waste. However, if waste is generated (objects at the bottom of the sea), the organisation of waste management must be guided by the requirements arising from the Waste Act and its subordinated legislation. Further construction may lead to the generation of waste, so the circumstances related to waste must be clarified in subsequent stages based on the measures provided for in section 10.12 of the EIA report.

3.5. Considerations in granting / refusal to grant an environmental permit and setting requirements

3.5.1. The Environmental Board will base its decision on the granting of an environmental permit on the basis of the above circumstances and also on the provisions of subsection 2 of § 4 of the Administrative Procedure Act, according to which the right of discretion shall be exercised in accordance with the limits of authorisation, the purpose of discretion and the general principles of justice, taking into account relevant facts and considering legitimate interests.

3.5.2. In making its decision, the Environmental Board will also rely on the information contained in the North West Estonia Offshore Wind Farm EIA report and also in the decision approving the North West Estonia Offshore Wind Farm EIA report. However, only the subject of the environmental permit (special use of water) and the updated environmental permit application submitted on 31 March 2025 are considered narrowly. The North West Estonia Offshore Wind Farm EIA report is one of the sources of information, the decision to approve the North West Estonia Offshore Wind Farm EIA report has no regulatory or binding effect, the permit for activity is granted by an environmental permit, which also sets out all relevant requirements and conditions. Upon making a decision to grant or refuse to grant the permit, the decision-maker must take into account the results of the environmental impact assessment and the proposed environmental requirements. If the decision-maker does not take into account the results of the environmental impact assessment or environmental requirements, it must give a reasoned justification in the decision to grant or refuse to grant permit [84]. **Since the Environmental Board will base the granting of the permit on the special use of water and the updated application, the Environmental Board will not impose requirements on the environmental permit related to the installation and operation of wind turbines or export cables**.

3.5.3. The EIA report addressed the impacts of special use of water, but also touched upon the impacts of the construction and operation of offshore wind farms, the natural values of wind energy development areas and existing protected areas and the impact of the activities on them. The impact on the areas proposed for the establishment of nature conservation areas was not addressed separately, as the proposals were not made until mid-2023 and there was no clear position on how to take into account the proposed areas for the establishment of nature conservation areas (see section 3.2.4.7). In coordinating the EIA report, the Environmental Board clarified that, in connection with the proposals for the establishment of nature conservation areas, restrictions may be imposed on this development, since **more stringent requirements must be taken into account when planning and implementing activities in the protected area than elsewhere, because protected areas are subject to special requirements arising from the Nature Conservation Act and other legislation.**

Protected areas aim to preserve, protect and restore valuable natural objects, habitats and species, and therefore the environmental impact must be assessed with particular care and measures to mitigate environmental risks or prevent environmental threats must be applied with particular care. The EIA report analysed whether the development would entail significant negative environmental impacts, however, in the case of protected areas the activity must not adversely impact the condition status of the protected object. Thus, the threshold is different. Although the

area proposed for the establishment of a protected area is not yet a protected area, the proposals for the formation of nature conservation areas are not without merit or prospect and the establishment of nature conservation areas is likely. In addition, in 2025, the principle has been laid down that the proposed nature conservation areas **must also be taken into account when granting permits** (see section 3.2.4.8). Thus, it is important to bear these circumstances in mind so that the establishment of a protected area would not be without purpose in the future. In addition, the Court of Justice has emphasised that, **even if a Member State has not placed an area which meets the ornithological criteria under protection as a special protection area, those areas must be protected against deterioration of their status** (see judgment of the Court of Justice in Case C-96/98 Commission of the European Communities v the French Republic) [85]. The EIA report provided an assessment for the entire Estonian marine area, but not for specific IBAs, which was also confirmed only in 2023. **Thus, new circumstances have emerged since the approval of the EIA report.**

3.5.4. Page 23 of the EIA report refers to the need for a national designated spatial plan and highlighted the need for a number of additional studies (seabed habitats, seals, fish, birds, bats, chapter 11 of the EIA report), as the EIA report did not address all the impacts. However, as a prerequisite for the granting of a special use of water permit, legislation does not provide for a national designated spatial plan (see section 3.2.2.2.) and the developer has abandoned the application for the initiation of a national designated spatial plan prior to the granting of an environmental permit. Without an analysis of the overall picture (which should be carried out during the protected area proposal and REP procedure), the precautionary principle must be applied when granting the environmental permit.

3.5.5. **In addition to the above, since the approval of the EIA report, various analysis/study reports have been prepared:** The Estonian Marine Institute's 2024 assessment of the status of seabed habitats (see section 3.4.2.2.), the Waterbirds Report prepared in 2024 (see section 3.4.4.4), the principles for assessing the loss and disturbance of seabed habitats have been clarified (see sections 3.4.2.3 and 3.4.2.4). The Environmental Board is of the opinion that the latest and best knowledge must be taken into account when granting an environmental permit. **Thus, consideration of the granting of an environmental permit will be based on the latest information and on whether and how special use of water can be allowed in a way that simultaneously protects the condition of areas covered by the protected area proposals from deterioration.** The additional information makes it possible to assess more precisely the possible impacts of the proposed activities and to identify circumstances that could not be addressed with sufficient precision in previous assessments. When granting a permit, it is important to rely on the most recent and science-based data in order to ensure the legality of the decision and the protection of environmental interests. This approach is important because the objective of creating marine protected areas must also be kept in mind.

3.5.6. According to the proposal for the establishment of a nature conservation area, the main purpose of the establishment of protected areas is the protection of habitats and species, and in order for the area to remain natural, it was proposed to take the area under protection as a nature conservation area. According to § 27 of the Nature Conservation Act, a nature conservation area

is established for the preservation, protection, restoration, research and introduction of the natural environment. The protection procedure of the protected area is determined by the protection rules. According to the proposal for the establishment of the nature conservation area, dredging and the construction of structures would not be allowed in the areas (see section 3.4.8.4.). **Thus, special use of water should not be carried out in the TP2-3 development area, as well as in the reef habitat type area in the TP4 development area. In the case of development area TP1, the reef habitat type can be avoided (see section 3.4.2.6).**

3.5.7. Moreover, under point 34 in matter 3-20-1657, the Supreme Court stated that 'the chamber does not agree with the applicant (Birdlife Estonia) that the loss of a habitat type resulting from mining must inevitably be regarded as a significant environmental nuisance. **The recognition as a significant disturbance depends on the extent of the impact of habitat type loss on the national status of the habitat type.'** In addition, point 37 of the judgment states that 'If it is not possible to refute a reasonable suspicion that the status of a habitat type may deteriorate to a significant extent even outside the extraction area, the cumulative impact must rather be conceded on the basis of the precautionary principle.' The 2024 analysis by the Estonian Marine Institute of the University of Tartu 'Loodusdirektiivi mereelupaikade seisundi hindamine ja EL Looduse taastamise määruse mereelupaikade piiritlemine' assessed the status of marine habitats as specified in the Habitats Directive. The said work indicates that, unlike previous assessment methodologies, trends, including future trends and prospects, need to be taken more into account in accordance with the updated implementation guide of Article 17 of the Habitats Directive. Due to the active planning of wind farms, the future trends of the parameters of habitat type 1170 reefs were assessed as negative, therefore the aggregate assessment of future prospects is unfavourable-insufficient. Therefore, the conservation status of this habitat type was also determined as unfavourable-insufficient, since future prospects are poor. **Thus, the loss of reefs must be regarded as a significant disturbance, and the loss of reefs should not be allowed even in a situation where no protected areas are established pursuant to the proposal for the establishment of nature conservation areas. As far as is known, the loss of reefs in the area TP2-3 cannot be avoided even by shifting the special use of water locations. Thus, the special use of water in the area TP2-3 cannot be allowed.**

3.5.8. In addition, according to the Waterbirds Report prepared in 2024, the surroundings of Hiiumaa are important for aquatic benthic feeding birds (including endangered birds) (see sections 3.4.4.4, 3.4.8.8). Thus, it is important to prevent deterioration of the condition of feeding areas in order to protect the IBAs' status from deteriorating. Loss and fragmentation of feeding areas, as well as impoverishment of feeding areas, should be counted as the deterioration of feeding areas. The EIA report is based on the assumption that seabed communities will recover, however, on hard substrates (reefs), there is a loss of communities (see section 3.4.2.4). **It is not possible to avoid the loss of reefs in the TP2-3 area during the special use of water (see section 3.4.2.5). Thus, based on the Waterbirds Report and the refined principles for assessing the loss of seabed habitats (see section 3.4.2.4), a significant negative impact on the food source and feeding conditions of birds in area TP2-3 is not excluded.** Since area TP2-3 overlaps with the IBA area, the area must be protected against deterioration (see judgment of the Court of Justice in Case C-96/98 Commission v France).

3.5.9. On the basis of subsection 1 of § 192 of the Water Act and clause 6 of subsection 1 of § 52 of the General Part of the Environmental Code Act, the issuer of the environmental permit refuses to grant an environmental permit if the activity involves an environmental threat. Pursuant to subsection 2 of § 56 of the General Part of the Environmental Code Act, the issuer of an environmental permit may decide the partial granting of the environmental permit where justified. **Based on the above, special uses of water are permitted in areas TP4 and TP1, applying appropriate mitigation measures (see section 3.6). The implementation of the special use of water in area TP2-3 realises the threat of damaging the habitat type with poor future prospects, the deterioration of the status of the Northern Hiiumaa IBA area (including the deterioration of the status of protected benthic feeding birds), and it also threatens the achievement of the environmental objectives set out in the proposal for the establishment of Northern Hiiumaa nature conservation area. The granting of an environmental permit for area TP2-3 involves an environmental threat that cannot be avoided. Thus, the Environmental Board refuses to grant an environmental permit for the area TP2-3.**

3.5.10. Not carrying out special use of water (and thus also the establishment of an offshore wind farm) in TP2-3 areas, rules out negative impact on seabed habitats and bird fauna in the IBA of Northern Hiiumaa and in the area proposed for the construction of a nature conservation area. By avoiding the special use of water (and thus also the construction of an offshore wind farm) in the TP2-3 area, impact on the important spawning area of fish on the slope of area TP2-3 is also avoided. Refusal to grant an environmental permit is therefore an appropriate measure to achieve the objective of avoiding environmental threats.

3.5.11. The prohibition of special use of water in the area TP2-3 is necessary in order to prevent the realisation of the unfavourable status of reefs and the deterioration of the status of the Northern Hiiumaa IBA and that in the future the establishment of the Northern Hiiumaa nature conservation area would not become impossible or unjustified. In order to achieve the above objectives, there is no other measure that is less burdensome for the environmental permit applicant, which would also be as effective as a prohibition. One of the objectives of the MSFD status assessment is that the proportion of marine protected areas (marine part) is 30% of the marine area, the target would contribute to the achievement of good status of the marine environment in terms of biological diversity (D1), food webs (D4) and the integrity of the seabed (D6). Currently, 706,662 ha, or 19.3% of the entire marine area of Estonia (together with the economic zone - 3,662,000 ha) is under protection. If all the areas included in the layer of the projected areas are taken under protection, plus the areas proposed for the establishment of Western Hiiumaa, Northern Hiiumaa and the Northern Shoales nature conservation areas, a total of 383,200 ha would be protected, ie together with the existing protected areas, the proportion of the protected area would be 29.7% of the total marine area (including the economic zone). If the areas proposed for the establishment of Western Hiiumaa, Northern Hiiumaa and the Northern Shoales nature conservation areas are not taken under protection, a total of 281,000 ha would be added to the existing protected areas, ie the share of the protected area together with the protected areas would be 26.9% of the total marine area (including the economic zone). **Thus, the special use of water in the construction of the foundations of wind turbines and the preparation of potential cable routes could threaten the achievement of the target of the proportion of marine protected areas.** The granting of an environmental permit to area TP2-3 realises the threat of damaging the habitat type

with poor future prospects, thus entailing a risk of not achieving the objectives of MSFD and Habitats Directive. Although the EIA report clarified that the establishment of an offshore wind farm would not lead to significant negative impacts, the natural values in the area would not be preserved in their natural state, which would be important for the construction of the protected areas. In addition, granting a permit must be based on the latest knowledge.

3.5.12. The spatial analysis of the Hiiu marine area states that wind energy should not be developed in environmentally protected areas (species' protection sites, bird areas, candidate bird areas, special areas of conservation, protected areas, limited-conservation areas). The north-western Estonian marine area is one of the most important waterbird migration bottlenecks in Estonia [86], [87], so finding areas of the same value to be placed under protection in the Hiiu marine area or elsewhere in Estonia would not be possible. Although the special use of water does not confer the right to install or operate a wind farm, the special use of water alone already reduces the area of valuable seabed habitats, additionally creates an extensive disturbance zone. Even with the implementation of the mitigation measures specified in the EIA report (avoiding valuable habitats where possible, monitoring the spread of suspended solids and preventing its spread to protected areas), it is not possible to carry out the special use of water in area TP2-3 in a way that does not lead to loss of reefs and preserves the seabed in its natural form. Based on the information available, it is not possible to shift the special use of water locations in such a way as to avoid the loss of reefs (see sections 3.4.2.6, 3.9.9). As far as it is known, there are no technologies to carry out special use of water work, for example, on carbonate sedimentary rocks without causing the loss of reefs. It is also impossible to avoid the formation of suspended solids. In area TP2-3, it is not technically possible to prevent the loss of reefs and creation of the disturbance (see section 3.4.2.6). Moreover, the future construction and operation of wind turbines will have an impact on birds, bats and seals, about which there is currently no clarity, and further research is needed. Thus, the loss of reefs and the deterioration of feeding conditions of birds in the area TP2-3 can only be avoided by abandoning the activity. Thus, there are no measures that are at least as effective but less burdensome.

3.5.13. The prohibition of special use of water in the area TP2-3 is moderate, as it would allow the development of wind energy while achieving the objectives of the protection of the marine area, fish and birds. The developer has strongly wanted to treat the development areas as separate, including pointing out that they can be operated by different companies. Thus, it can be concluded that the developer has also analysed that it is economically and technically possible and/or feasible to build three different offshore wind farms with a capacity of up to 400 MW. Thus, even a partial realisation of the development presumably does not render the renewable energy project unreasonable or impossible. Moreover, in the later (spatial plan) stage, it is possible to change/shift wind energy areas on the basis of additional surveys and thus it may be possible to plan development in a wider area of the Hiiu marine area. For this purpose, a relevant secondary condition is imposed on the environmental permit (see section 1.4.1).

3.5.14. The Ministry of Regional Affairs and Agriculture has pointed out in its letter of 16 August 2023 [88] that the Government of the Republic, by order No 146 of 12 May 2022, established the Thematic Spatial Plan of the National Spatial Plan's Estonian Maritime Area 'Estonian Maritime

Spatial Plan'. According to chapter 2 'Starting points' of the Estonian Maritime Spatial Plan, the Estonian MSP is a strategic spatial development document on the national level, which plans the basic developments in marine space for the next 15 years or so. Together with the valid county-wide spatial plan of the marine area bordering Pärnu County, the marine area currently has a total of 2,439 km² of suitable areas for the development of wind farms, which accounts for about 7% of the total marine area of Estonia. Under suitable conditions, offshore wind farms with a capacity of 15-17 GW can be built in these areas, which will cover Estonia's current energy needs nearly 10 times, and 15 to 17 times the amount of renewable electricity needed by offshore wind farms to meet the 2030 target. Moreover, the national renewable energy targets would not be significantly affected by the reduction of areas for wind energy development, as according to version IV of the draft Energy Sector Development Plan (ENMAK) 2035 (15.07.2025) [89], the goal is to build offshore wind farms with a capacity of 1GW by 2030, 3GW by 2040, and 4GW by 2050. As of October 2025, the total maximum capacity of offshore wind farms with pending (or issued) superficies licences is 17.4 GW [90]. According to the EIA report, construction is not expected to commence before 2033, so it is not possible to contribute to the 2030 targets either. **Thus, the realisation of all wind farms mentioned in the environmental permit application is not key to achieving the renewable energy targets.**

3.5.15. The environmental permit is granted for an unspecified term (subsection 1 of § 189 of the Water Act), unless the special use of the water is one-off (clause 2 of subsection 1 of § 189 of the Water Act). If the special use of water is one-off, the environmental permit is issued for the duration of the activity (subsection 2 of § 189 of the Water Act). According to the application, the environmental permit was requested for fifty years, given that a superficies licence for encumbering the seabed is granted for a term of fifty years. However, it is obvious that the special use of water associated with the construction of foundations of the offshore wind farm is not so long in duration. According to the environmental permit application, the construction period is expected to last a total of three to four years, which includes both onshore and offshore activities. At the same time, it is necessary to take into account that all other necessary permits must be applied for before the commencement of the special use of water. Clause 3 of subsection 1 of § 62 of the General Part of the Environmental Code Act sets out that the issuer of an environmental permit revokes the environmental permit where the activity permitted under the permit is not commenced within two years as of the granting of the permit. According to the comments to the General Part of the Environmental Code Act [91], this ground for revocation of the permit helps to avoid the reservation of the right to use of a limited resource, which natural resources must be regarded as, for an unlimited period of time. The purpose of such regulation is also to ensure that the exercise of the right granted on the basis of information available at a certain time (eg the EIA report) is not postponed into the distant future and that the related obligations (eg monitoring obligations) do not begin to be fulfilled in the distant future, given that the environmental situation is constantly changing over time. However, it is recognised that in the case of large-scale activities, the preparation for such activity can also be counted as the beginning of the activity. Given that commencing with the special use of water is not permitted without having the corresponding superficies licence and building permit, other activities aimed at obtaining permits such as acceptance of procedure on a superficies licence, submitting an application for initiating spatial plan, initiating spatial plan or submitting an application for a building permit could also be

considered as preparation for a special use of water activity. Thus, the term of an environmental permit should be justified and period of fifty years is excessively long for exercising the right conferred by this environmental permit. Therefore, an environmental permit is granted with a validity of fifteen years, which is presumed to be sufficient to carry out the activity permitted under the environmental permit.

3.6. Mitigation measures

3.6.1. Chapter 10 of the EIA report sets out mitigation measures. The measures set out in the EIA report are not directly applicable. **Specific mitigation measures are set in the environmental permit based on the decision-maker's discretion, taking into account the scope of the permit (special use of water).** In deciding whether to grant an environmental permit, account must be taken of the results of the EIA and the environmental requirements included in the EIA report. Where, upon making a decision to grant or refuse to grant development consent, the decision-maker fails to take into account the results of environmental impact assessment or disregards the environmental requirements added to the report, the decision-maker must state the reasons for the decision to grant or refuse to grant development consent (subsections 1 and 2 of § 24 of the Environmental Impact Assessment and Environmental Management System Act).

3.6.2. Adhering to this order and chapter 10 of the North West Estonia Offshore Wind Farm EIA report and page 1 of the decision on the approval of the EIA report, on the basis of clauses 6, 8, 9 and 12 of subsection 1 of § 193 of the Water Act and clause 6 of subsection 1 of § 53 of the General Part of the Environmental Code Act, **the environmental permit is subject to requirements and conditions required to mitigate impacts associated with the special use of water** (table V16 of the permit).

Dumping

3.6.3. The dumping of dredging spoils is prohibited. As the EIA report did not set out dumping as an alternative and its impacts were not assessed, the dumping of dredging spoils is not permitted. Dredging spoils must be used for the filling of gravity base foundations and cable trenches.

Seabed habitats

3.6.4. The determination of special use of water locations must be based on maps of habitat types. Dredging in the preparation of places for the placement of potential wind turbines is not allowed in reef habitats. If possible, special use of water work should not be performed or should be performed to a lesser extent in the area of reefs during the preparatory work of potential cable routes.

3.6.5. Dredging in the preparation of the seabed should be used in case of extreme necessity.

3.6.6. Upon special use of water, damaging the surrounding seabed must be avoided.

3.6.7. When placing solids when installing potential wind foundations, it is necessary to choose materials the outer layer of which is as similar to the natural seabed (rocky, stony, non-toxic, the

surface structure allows for the attachment of species) as possible.
3.6.8. Upon placing solids in the manufacture of potential erosion barriers, natural, land-based material must be used.
3.6.9. Upon placing solids to cover potential cables, it is necessary to choose a material with properties similar to the natural material of the seabed in the corresponding location. Upon dredging, it is covered with material from the dredging. The material used for covering should be as similar as possible to the bottom substrate (with the same properties).

Spreading of suspended solids

3.6.10. Special use of water work must be suspended until the situation of currents changes, if the monitoring of the suspended solids shows the distribution of suspended solids (concentrations clearly differ from the natural distribution) in the Apollo seabed nature conservation area, the Hiiu Shoal, the Väinamere Conservation Area or in the areas proposed for the formation of the nature conservation area (Western Hiiumaa, Northern Shoal). An increase in the concentration of suspended solids significantly higher than the natural concentration is considered to be approximately 6-7 mg l-1. As mitigating measures, for example, a reduction in the intensity of work or the use of a barrier hampering the spread of suspended solids can be applied.

Fish fauna

3.6.11. Upon placing solids when installing potential wind turbine foundations, non-toxic materials must be used.
3.6.12. In the placement of solids while placing potential cables it must be taken into account that the cables must be embedded or covered.
3.6.13. Special use of water work in areas located on soft substrate (except rock and stones) must be carried out outside the spawning season of fish species spawning in spring - special use of water in April, May and June should be avoided.
3.6.14. When carrying out special use of water work, methods and techniques must be used that produce as little noise as possible.
3.6.15. Noise-generating activities in special use of water must be started ‘softly’ (quietly) so that the fish can escape the area by the time the louder sound is produced.
3.6.16. Special use of water work must be suspended if the concentration of suspended solids exceeds the limit value of 6.7 mg/l as a result of the monitoring of suspended solids (the spatial extent of the condition must be specified when drawing up the monitoring plan). Works must be suspended until the situation changes.

Marine mammals

3.6.17. To mitigate underwater noise, solutions that impede or reduce the spread of noise (eg bubble curtain, acoustic sealing pads) must be used. The impact of noisy works is reduced from February to May, when the animals are not actively feeding or migrating. The results of monitoring before and during special use of water work may clarify the possibility of special use of water during these periods.

3.6.18. It is advisable to plan special use of water work based on the marine use of seals: for example, the impact of underwater noise in marine areas adjacent to haul-out sites is less during periods when seals are out of the water for longer periods (February to May). The results of continuous monitoring before and during special use of water work may clarify the possibility of special use of water during these periods.
3.6.19. Scheduling of vessel traffic from June to August (including) to disperse loads is advisable where simultaneous movement of several vessels in development areas is foreseen and cumulatively high noise levels can be expected.
3.6.20. Indicative planning of noisy activities in area TP1 from December to May (inclusive).

Avifauna

3.6.21. The determination of the locations for special use of water work must be based on the fact that work is not allowed closer than 5 km to the Apollo and Hiiu Shoals. In addition, the final determination and repositioning of special use of water work must comply with sub-chapter 10.5 of the EIA report.
3.6.22. The organisation of the movement of ships or aircraft on a defined route of movement that overlaps as much as possible with the fairways already in use.

Preventing the occurrence and spreading of oil spills

3.6.23. Before the start of special use of water work, a pollution control plan must be developed taking into account all protected and conservation areas in the area.
3.6.24. When carrying out work, it is necessary to observe safety rules that exclude the occurrence of oil spills.
3.6.25. When carrying out special use of water work, measures must be taken to prevent the oil spillage to the sea or keep it minimum. Upon the occurrence of oil spillage, it must be eliminated in an appropriate and expeditious manner.
3.6.26. It is necessary to ensure that staff are trained to respond quickly in the event of pollution and to eliminate pollution appropriately.

Deposits and mining claims

3.6.27. In development area TP 4, special use of water work must not hamper access to mineral resources and the extraction of mineral resources in the Hiiu Shoal sand quarry. In order to ensure this, it is necessary to cooperate with the holder of the extraction permit (AS TALLINNA SADAM).

Underwater archaeological monuments

3.6.28. The results of underwater archaeological surveys must be used as a basis for the organisation of works. The special use of water locations and the locations of historic shipwrecks and monuments and their protection zones must not overlap.
3.6.29. If there is a need for blasting operations, if cultural monuments remain in the danger zone of the explosion, cooperation with the National Heritage Board must be undertaken in the

preparation of the blasting project. If necessary, mitigation measures must be implemented to protect cultural monuments, which will be developed in cooperation with the National Heritage Board.

3.7. Monitoring requirements

3.7.1. In accordance with this order and chapter 11 of the North West Estonia Offshore Wind Farm EIA report and p 1 of the decision on the approval of the EIA report, on the basis of § 3^3 of the Environmental Impact Assessment and Environmental Management System Act, clause 5 of subsection 1 of § 193 of the Water Act and clause 9 of subsection 1 of § 53 of the General Part of the Environmental Code Act, the requirements for monitoring are imposed on the environmental permit (permit table V8).

3.7.2. According to the EIA report, the construction work will be completed around 2033. However, a realistic time-frame for carrying out monitoring preceding the special use of water is not precisely known. There is a high probability that monitoring methodologies will evolve and become more accurate and effective. It is also possible that some preliminary surveys will be carried out under other permit procedures. Thus, it is not expedient to definitively set out the monitoring plan with all the details in this order. In addition, it is possible to consider in more detail areas proposed for the establishment of nature conservation areas in the preparation of a detailed monitoring plan, since it can be assumed that information on the establishment of protected areas and the protection objectives to be established will be available by that time. **Thus, the main areas and guidelines for monitoring are imposed on the environmental permit in stages, but a detailed monitoring plan must be drawn up before the commencement of the monitoring preceding the special use of water.**

3.7.3. **A detailed monitoring plan must be prepared in cooperation with the developer, the Environmental Board and a competent expert and coordinated with the Environmental Board** (see secondary condition 1.4.4.). The monitoring plan should be based on the requirements of the environmental permit, chapter 11 of the EIA report, the guideline prepared by TalTech in 2025 „Metoodika mõju hindamiseks hüdrodünaamikale ja vee omadustele (sh. vee kvaliteedile) meretuuleparkide rajamisel" [Methodology for the Assessment of the Impact on Hydrodynamics and Water Properties (including Water Quality) in the Construction of Offshore Wind Farms] [92] and the HELCOM guidelines [93]. **The monitoring plan must cover all the areas of monitoring mentioned in section 3.7: monitoring preceding, during and after the special use of water work, and both special use of water areas (TP1 and TP4).** The monitoring plan must also set out the sampling or observation methods to be followed by the permit holder, specify the frequency and format in which monitoring results and reports must be submitted and how monitoring data should be taken into account when planning the works. Monitoring (sampling and analysis of samples) carried out under an environmental permit must comply with (or be consistent with) the monitoring methodologies and quality requirements used in the marine monitoring sub-programme of the National Environmental Monitoring Programme [94] and with the relevant regulations of the Minister of the Environment established under the Water Act [95], [96], [97], [98].

3.7.4. A detailed monitoring plan must be submitted for coordination through the KOTKAS system half a year before the commencement of the monitoring work prior to the special use of water work. In this way, the monitoring plan will be set with the environmental permit and accessible to all.

Monitoring preceding special use of water work

Water quality and hydrodynamics

3.7.5. Measurements of water quality and hydrodynamics must be carried out within one year before the start of special use of water work. The objective is to clarify the situation of the aquatic environment before the start of the special use of water and to verify the results of the modelling carried out during the EIA.

3.7.6. Studies of water quality and hydrodynamics must be carried out: (1) the area between the special use of water locations, at approximately equal distance from them; (2) outside the impact area of the special use of water work.

3.7.7. The following must be measured at the indicated locations: vertical profiles of current speeds, waves, wind, temperature, salinity, density (calculated based on salinity and temperature), stratification strength (calculated based on salinity and temperature), mixed layer thickness (calculated based on salinity and temperature), oxygen and chlorophyll concentration, nutrients, including total nitrogen and total phosphorus in water. Temperature, salinity, nutrients, including total substances are measured from the departure of the ice to autumn on at least two horizons: the upper layer and the near-bottom layer. In winter, temperature and salinity can be measured on one horizon. Chlorophyll *a* measurements should be made in the upper layer from the time the ice retreats until autumn. Oxygen measurements should be made in the near-bottom layer from the time the ice retreats until autumn. Temperature, salinity, oxygen and chlorophyll *a* should be measured at intervals of at least 3 hours. Nutrients (including general substances) should be measured at intervals of at least two weeks. Measurements, sample collection and analyses must be carried out by certified samplers and using accredited methods that comply with the HELCOM guidance materials (if available, see https://helcom.fi/action-areas/monitoring-and-assessment/monitoring-guidelines/).

Seabed habitats

3.7.8. The purpose of monitoring is to observe potential impacts of special use of water on seabed habitats throughout the project area.

3.7.9. Before the start of special use of water work, an inventory of seabed habitats in the development area TP1, which is not covered by the previous inventory, must be carried out in accordance with the methodology of the inventories previously carried out within the framework of the EIA. This would also provide an opportunity to make a quantitative assessment of habitat

distribution.

3.7.10. At the special use of water locations and within a radius of 200 m from each special use of water location (site for the preparation of both potential foundations and cables), the structure and characteristics of the seabed habitat must be documented prior to special use of water work (sonar mapping of the bottom relief, underwater video observations, quantitative sampling, if possible, oxygen conditions, organic content of sediments) in order to map the state prior to the specific use of water.

Fish fauna

3.7.811. Monitoring preceding special use of water in the development area consists of documenting the exact baseline conditions in spring, summer, autumn and winter.

Underwater archaeological monuments

3.7.12. Before the final determination of the special use of water locations, an underwater archaeological survey must be carried out. An underwater archaeological survey consists of a high-resolution sonar survey and documentation of identified man-made anomalies (3D video or photo documentation).

3.7.13. For the purpose of recording and condition assessment, video or photo documentation must be assembled using photogrammetry or other technology or a method with an equivalent result, and in the case of a wooden wreck, dendrochronological study if the age of the wreck cannot be confirmed by other methods.

3.7.14. The underwater archaeological investigation may be carried out by a company which employs a person with competency certificates in the respective area and who has submitted a notice of economic activity regarding operating in the heritage conservation field (pursuant to Sections 68-69 of the Heritage Conservation Act). Before carrying out the study, the competent person must submit to the National Heritage Board a research plan and notice, and after carrying out the research, a research report (sections 46-48 of the Heritage Conservation Act).

Monitoring of marine mammals

3.7.15. Before the start of the special use of water, it is necessary to carry out studies on the marine use of seals (grey seal, ringed seal) in the northern part of the Väinameri and in the special use of water area TP1 and TP4 and to monitor the number of seals in the haul-out sites associated with the same area at all seasons, in addition to the national monitoring of the total number in spring. The objective of the study is to map the state prior to the special use of water and, if necessary, to specify mitigation measures (see sections 3.6.17.-3.6.20).

- In order to measure the marine use of grey seals (adult seals), a telemetric survey (5 to 10 individuals, captured at Selgrahu) must be carried out to identify the current situation. If the animals are local, ie use marine areas clearly associated with Selgrahu, the study should be repeated during special use of water work.

- In order to measure the marine use of ringed seals, a telemetric survey (5 to 10 individuals, caught from the northern part of the Väinameri) must be carried out in order to identify the current situation. If the animals move regularly in the northern part of Hiiumaa or migrate to Finland, the study must be repeated during special use of water work. The main method is flight counting, 4x2 flights in one year (over Selgrahu, Kadakalaid, Vormsi and the northern part of Väinameri).

Monitoring during special use of water

Spreading of suspended solids

3.7.16. In the special use of water area, suspended solids must be monitored. In accordance with the results of the monitoring, mitigation measures must be implemented (see sections 3.6.10., 3.6.16.).

Seabed biota and habitats

3.7.17. The purpose of the monitoring is to observe possible changes and to enable to respond quickly to undesirable changes in the state of seabed habitats and environments.

3.7.18. Immediately after the completion of dredging work in the preparation of bases for potential wind turbine foundations and the placement of solids in the construction of potential wind turbine foundations, document the condition of the seabed biota and habitat in the immediate vicinity of the special use of water locations (200 m radius) and the extent of possible damage (video observations).

3.7.19. During the preparatory work on potential cable lines, it is necessary to observe the possible effects on the entire area covered by the special use of water permit and in as varied environmental conditions (depths, bottom sediments) as possible.

3.7.20. In the immediate vicinity of special use of water work, monitor the status of the seabed biota (both on soft and hard bottoms) (reference area). The frequency of monitoring is once during the special use of water work and once after the special use of water work has been completed.

Fish fauna

3.7.21. During special use of water work, operational monitoring of fish fauna must be carried out in order to monitor changes in the species composition and abundance of the fish fauna on an ongoing basis. Suspended solids monitoring must be scheduled in parallel with fish monitoring (operational monitoring) in order to assess fish behaviour at the same time.

Monitoring after special use of water

Water quality and hydrodynamics

3.7.22. The same measurements as in the phase preceding special use of water must be carried out two years after the end of the special use of water work. After two years of monitoring, it should be decided whether or not the monitoring should continue. With a frequency of once to twice a month, monitor the aquatic environment parameters and hydrodynamics.

Seabed biota and habitats

3.7.23. The purpose of the monitoring after the special use of water is to observe possible changes and to enable to respond quickly to undesirable changes in the state of seabed habitats and environment across various special use of water works.

3.7.24. Special use of water in the preparation and construction of potential foundation bases:

- Follow-up monitoring must be carried out in at least three special use of water locations per development area for at least one year;
- After the end of the special use of water, the development of communities attached to at least three solids placement sites in each development area must be observed throughout the depth in the photic zone (layer where photosynthesis is still taking place) every meter of depth, deeper every 5 m (during the first two years with a frequency of 6 times a year, later with a frequency of once every two years);
- The colonisation of the solids placement site by seabed biota must be observed (quantitative sampling/assessment, once a year, for five years after the end of the special use of water, the entire depth range from bottom to surface, at three sites per area);
- The accumulation of organic matter in the vicinity of the special use of water location (sediment traps, over a period of five years, at three special use of water locations per development area) must be observed;
- The status of the seabed habitats in development areas must be observed (3 stations per area, underwater video surveillance, quantitative sampling, once a year);
- A mapping of the status of the seabed biota in the immediate vicinity of the development area and within the development area (20-30 stations for each development area) must be carried out with a frequency of once a year. The state of the biota of both hard and soft substrates must be assessed. In addition, at the end of the special use of water phase, a repeated sonar survey of seabed sediments must be carried out over a period of a few years to determine the impact of the activity on sediment relocation.

3.7.25. Special use of water in the preparation of potential cable routes:

- Follow-up monitoring of the special use of water work must take place annually during the summer months (June to September) for a minimum of five years. Depending on the substrate, the technology is slightly different;
- Soft sediment: select three areas where cable embedding has occurred. In each selected area, video observations of the seabed will be conducted using an ROV, drop camera or diver. Each observation should include 10 repetitions, with each video covering a minimum area of 5 m^2. Additionally, quantitative samples must be collected from the soft sediment in the immediate vicinity of the special use of water locations in at least three replicates in each

area. A reference area, at least 500 metres away and with similar seabed characteristics, must be established for each monitoring area. Observations and sampling must be carried out in the reference area according to the same scheme (it is important that the reference area is definitely outside the area of impact of dredging);

- Hard substrate: select five areas where cable embedment or installation has taken place. These areas should be evenly distributed across the entire occupied depth gradient, covering both the photic and the aphotic zones. The shallowest area must be in the range of 2–5 m. In each area, video observations of the seabed must be conducted using an ROV, drop camera or diver. Each observation should include 10 repetitions, with each video covering a minimum area of 5 m^2. Additionally, quantitative samples must be collected from the hard substrate in the immediate vicinity of the special use of water locations in at least three replicates in each area. A reference area, at least 500 metres away and with similar seabed characteristics, must be established for each monitoring area. Observations and sampling must be carried out in the reference area according to the same scheme (it is important that the reference area is definitely outside the area of impact of the works);

Fish fauna

3.7.26. In order to monitor changes in the species composition and abundance of fish fauna during the period following the special use of water, monitoring must be carried out annually for the first five years after the end of the special use of water work.

3.8. Imposition of secondary conditions

In view of the above and under clauses 2 and 3 of subsection 2 of § 53 of the Administrative Procedure Act, the following secondary conditions are imposed on the environmental permit:

3.8.1. The Environmental Board has the right to amend or revoke the environmental permit if, on the basis of the spatial plan and/or the superficies licence, the locations of the offshore wind farms change or the offshore wind farm is not allowed to be built in the area indicated in the environmental permit.

3.8.2. Upon establishing nature conservation areas in Western Hiiumaa, Northern Hiiumaa and/or Northern Shoal, it is permitted to amend or revoke an environmental permit in accordance with the protection rules to be established.

3.8.3. An environmental permit grants the right to the special use of water (dredging, placement of solids to the seabed below average water level, placement of dredging spoils at the bottom of the sea) and does not replace other necessary permits necessary for encumbering the seabed with an offshore wind farm and/or the construction of wind turbines and/or cables within the wind farm. Special use of water may not be commenced before the relevant permits have been obtained.

3.8.4. The detailed monitoring plan must be submitted to the Environmental Board for coordination half a year before the start of the monitoring work prior to the special use of water, the approved monitoring plan will become a part of the environmental permit and must be used

as a basis for monitoring and the submission of monitoring results. If new and additional information is added during the monitoring, it is possible to revise the conditions of the environmental permit and, if necessary, amend the environmental permit based on the results of the monitoring.

3.8.5. In the development area TP4, special use of water is not permitted in the area of the Hiiu Shoal sand deposit overlapping with the Hiiu Shoal sand quarry mining claim. Special use of water is possible provided that a permit for activities affecting the condition and use of the earth's crust has been obtained on the basis of the Earth's Crust Act or the extraction permit granted in an area overlapping with a mining claim has expired and an approval and permit has been obtained for the construction of a renewable energy construction on the mineral deposit area in accordance with clause 3 of subsection 2^1 of § 14 of the Earth's Crust Act.

3.8.6. On page 271 of the Manual of Administrative Procedure [99], it is explained that 'the purpose of secondary conditions is to ensure flexibility in the performance of administrative tasks and consideration of different interests. Black-and-white solutions, where the administrative body has the option to choose only whether to issue or not to issue an administrative act, in many cases do not lead to the desired results'. Considering that an environmental permit is currently granted, but for the construction of a wind farm it is necessary to apply for a number of different permits, carry out spatial plan, decide on the establishment of a nature conservation area and the use of mineral resources, then the imposition of secondary conditions is indispensable in order to achieve the necessary flexibility. The imposing of secondary conditions also gives the holder of the permit the option to amend the environmental permit if the possibility of developing wind power in a wider area becomes available in the future. The supreme court has also previously indicated (3-3-1-31-16 point 14) that an additional condition does not give rise to an unconditional subjective right or legal expectation to carry out an activity upon obtaining an environmental permit.

3.9. Consideration of proposals and objections

Opinions on and objections to the draft of 4 August 2025 were submitted by the Estonian Fund for Nature and Birdlife Estonia, AS TALLINNA SADAM, the Ministry of Economic Affairs and Communications, Enefit Green AS, Hiiu Tuul MTÜ, the Consumer Protection and Technical Regulatory Authority and the Ministry of Climate. The most important views on the draft of 4 August 2025 and the respective positions of the Environmental Board are given below. The Environmental Board has supplemented this order based on the proposals, where appropriate.

Birdlife Estonia and Estonian Fund for Nature

3.9.1. Birdlife Estonia and the Estonian Fund for Nature pointed out that in the draft of 4 August 2025, only Birdlife Estonia has been referred to as expressing views in the earlier procedure, but the views were submitted by Birdlife Estonia and the Estonian Fund for Nature together. We ask that the related draft be corrected in the relevant sections 2.16 to 2.22.

The Environmental Board will correct in accordance with the proposal.

3.9.2. The draft of 4 August 2025 lacks the drawings to which the reference is made in the text.

The Environmental Board specifies that the file with the drawings was available in Annex 3 to letter No DM-130049-22 of 4 August 2025 of the Environmental Board. The Environmental Board apologises for the misunderstanding.

3.9.3. Birdlife Estonia and the Estonian Fund for Nature pointed out that section 3.2.1.2 of the draft of 4 August 2025 states that only on the basis of this water permit, permitted works may not be carried out and first a superficies licence must be obtained in order to use the marine area and a building permit for construction. In view of, inter alia, the fact that a prerequisite for obtaining these permits is the national designated spatial plan for the selection of the location of the wind farm, for which an SEA has been carried out, it does not seem necessary at the moment to submit more detailed views to the TP1 and TP4 draft water permit.
The Environmental Board agrees with the remark.

3.9.4. Birdlife Estonia and the Estonian Fund for Nature stick to the previous criticisms made regarding the deficiencies of the North West Estonia Offshore Wind Farm EIA report, in view of what was explained in section 3.5.4 of the draft of 4 August 2025, according to which the coordination of the EIA report is based on the fact that the spatial plan is prepared and the activities are discussed at a strategic level in the future, including the identification of local and political interest in building a wind farm in the given location.

The Environmental Board clarifies that the need for further spatial plan was known at the time of the coordination of the EIA report. Thus, the report highlighted the need for research as the EIA did not definitively resolve all fields of impact. However, the basis for the coordination of the report was the report's compliance with requirements. The Environmental Board will correct section 3.5.4 of the order accordingly.

Previous criticisms by Birdlife Estonia and the Estonian Fund for Nature in relation to the EIA report relate in particular to birds, marine mammals and bats, and to the operational stage of the wind turbines. The present procedure only narrowly deal with the special use of water and clarifications with regard to the latter have been given accordingly (see section 3.4). Under § 11 of the Environmental Impact Assessment and Environmental Management System Act, when processing applications for other activity licences (superficies licence, building permit), the decision-makers must reassess the necessity of an EIA, ie whether the EIA/SEA reports prepared are still sufficient for these permits, and, based on that assessment, make a decision on the necessity of an EIA. Given that the superficies licence procedure involves encumbering the seabed with an offshore wind farm, ie wind turbines as well as the operational stage of the wind farm, it is necessary to ascertain whether the EIA/SEA reports drawn up are sufficient when deciding over the granting of a permit. The EIA report also outlines additional surveys (chapter 11 of the EIA report) that may provide further information for decision-making. In addition, a national designated spatial plan will be carried out, if necessary, as well as an SEA as part of it.

AS TALLINNA SADAM

3.9.5. AS TALLINNA SADAM pointed out that the planning of wind turbines in the area of the Hiiu Shoal sand deposit is possible after the exhaustion of the mineral resources. Upon planning wind turbines around the Hiiu Shoal sand deposit, it is requested to take into account that the activities, including the installation of cables, would not impede access to the Hiiu Shoal sand deposit and the extraction of mineral resources. It is also requested to involve AS TALLINNA SADAM in the subsequent permit procedures. At the same time, AS TALLINNA SADAM is open to negotiations with Enefit Green AS regarding the conditions for the planning of wind turbines in the vicinity of the Hiiu Shoal sand deposit.

The Environmental Board points out that section 3.6.27 of the draft of 4 August 2025 set out a requirement in relation to the deposit, but clarifies the wording of the requirement based on the subject of the environmental permit (see section 3.6.27.). Additionally, section 1.4.5. of the draft of 4 August 2025 set out a secondary condition according to which in the development area TP4 special use of water is not permitted in the area of the Hiiu Shoal sand deposit overlapping with the existing Hiiu Shoal sand quarry mining claim. We explain that if AS TALLINNA SADAM and Enefit Green AS reach another agreement during the negotiations, and it is also necessary to coordinate it on the basis of subsection 1 of § 15 of the Earth's Crust Act (see section 3.4.10.2). However, based on the desire of AS TALLINNA SADAM and the developer to cooperate, the Environmental Board specifies the secondary condition as set out in section 1.4.5 as follows: In the development area TP4, special use of water is not permitted in the area of the Hiiu Shoal sand deposit overlapping with the Hiiu Shoal sand quarry mining claim. Special use of water is possible provided that a permit for activities affecting the condition and use of the earth's crust has been obtained on the basis of the Earth's Crust Act or the extraction permit granted in an area overlapping with a mining claim has expired and an approval and permit has been obtained for the construction of a renewable energy construction on the mineral deposit area in accordance with clause 3 of subsection 2^1 of § 14 of the Earth's Crust Act.

Ministry of Economic Affairs and Communications

3.9.6. The Ministry of Economic Affairs and Communications pointed out that building an offshore wind farm without a valid spatial plan is not possible. Therefore, the granting of an environmental permit is currently not considered expedient. Offshore wind farms are construction works that have a significant spatial impact in accordance with clause 4 of the Government of the Republic Regulation No. 102 'List of Construction Works that have Significant Spatial Impact' of 1 October 2015 and suitable areas for their construction can only be determined under spatial plan. The offshore wind farm areas in the marine area bordering Hiiu County as described in the draft of 4 August 2025 have been declared invalid, therefore referencing them in the environmental permit is incorrect.

The Environmental Board explains that the cited regulation establishes a list of objects with significant spatial impact planned under a municipal designated spatial plan, but the wind farm in question is not planned for the administrative territory of the municipality. The Environmental

Board has acknowledged the necessity of spatial plan in section 3.2.2. of the draft of 4 August 2025. The Environmental Board lacks the competence and the legal basis to require the initiation of spatial plan within the framework of this procedure. Legislation does not provide for the existence of a national designated spatial plan as a prerequisite for granting an environmental permit, despite the fact that it may not be expedient to grant an environmental permit prior to the establishment of a spatial plan. In addition, special use of water areas are referred to in the environmental permit application as TP1, TP2-3 and TP4, so this order specifically refers to special use of water areas. In section 3.2.2.1. of the draft of 4 August 2025 it is indicated that there is no valid spatial plan for the marine area, but the development areas mentioned in the spatial plan are not specified. Thus, the Environmental Board is of the opinion that it is appropriate to refer to the development areas marked in the application in the environmental permit order. Section 1.12 of the order specifies that the development area refers specifically to special use of water areas.

3.9.7. The Ministry of Economic Affairs and Communications pointed out that the environmental permit does not independently grant the right for construction. Dredging the seabed, placement of solid substances, etc described in the draft environmental permit would be construction (on the basis of subsection 1 of § 4 of the Building Code), which is illegal without valid spatial plan. It is also pointed out that the current granting of an environmental permit without a valid spatial plan does not create prerequisites and cannot give rise to justified expectations for the developer to prefer the locations specified in the environmental permit in the framework of a superficies licence or building permit procedure compared to other areas for the installation of wind turbines.

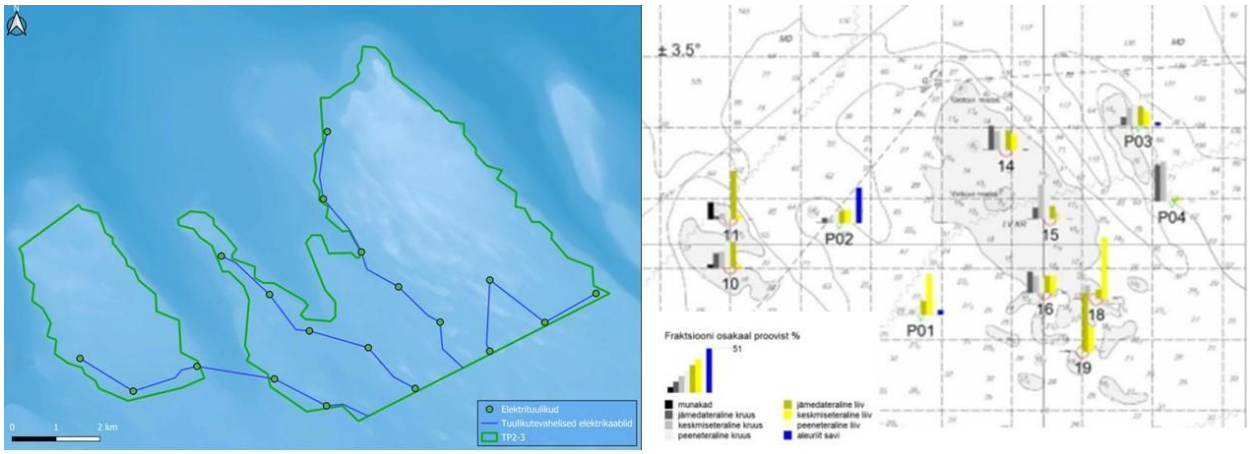
The Environmental Board points out that section 1.4.3 of the order states that 'An environmental permit grants the right to the special use of water (dredging, placement of solids to the seabed below average water level, placement of dredging spoils at the bottom of the sea) and does not replace other necessary permits necessary for encumbering the seabed with an offshore wind farm and/or the construction of wind turbines and/or cables within the wind farm'. Thus, the Environmental Board is of the opinion that it is clear to the developer that only holding an environmental permit does not grant the right to encumber the seabed or build, the environmental permit does not reserve the site or impose preferential rights. It is important to proceed with subsequent stages, otherwise the environmental permit may be revoked (clause 3 of subsection 1 of § 62 of the General Part of the Environmental Code Act). Given that in this case the special use of water work and construction are very closely linked, the Environmental Board specifies the secondary condition in section 1.4.3 so as to make it clear that the special use of water must not commence until other relevant permits have been obtained.

3.9.8. The Ministry of Economic Affairs and Communications stressed that it remains of the view that the granting of an environmental permit at the present time does not have a substantive objective as the prerequisites for its implementation are not met. The permit procedure is preceded by spatial plan, in which it is decided whether and where something can be built, and only thereafter an activity licence, in the course of which it is decided how the spatial plan can be implemented At the moment, granting an environmental permit would be premature and could lead to disputes.

The Environmental Board explains that it has analysed the circumstances related to the spatial plan in section 3.2.2. The grounds for refusal to grant an environmental permit have been specified in sections 3.3.1.-3.3.5. Legislation does not provide for the existence of a national designated spatial plan as a prerequisite for granting an environmental permit, and the absence of a spatial plan does not constitute ground for refusing to grant an environmental permit. The legislation does not provide for a mandatory order for issuing permits, therefore, in this case, it is not possible to require a valid superficies licence from the developer before the granting of an environmental permit. To the knowledge of the Environmental Board, an application for a superficies licence has been submitted. The granting of an environmental permit cannot be refused on the grounds that it may be premature and lead to disputes. In the opinion of the Environmental Board, the prerequisites necessary for the implementation of the environmental permit are set out in the secondary conditions of the permit and, if they are fulfilled, the essential purpose of the environmental permit cannot be excluded. The encumbering of the seabed with an offshore wind farm and the circumstances related to the operation of the wind farm are addressed in the superficies licence procedure where decisions on the designated spatial plan are also made, if necessary. If the development areas change or the scope of the activity changes in subsequent stages, amending the environmental permit is possible (see section 1.4.1).

Enefit Green AS

3.9.9. The developer has taken into account the location of the reefs and has provided the modified special use of water locations in the area TP2-3 (see figure 5). The new layout, according to the developer, completely excludes the location of the foundations on the reefs habitat in the area TP2-3. In this respect, loss of important marine habitat in the respective TP area can be estimated as low and is only related to the disturbance resulting from suspended solids. Accordingly, the proposal for the establishment of nature conservation area can also deal with the protection of reefs, where it is forbidden to erect construction works on reefs, but a mitigation measure must be used when laying cables, in which the depth of the cables must be ensured as narrowly as possible (the maximum width of the pit, depending on the seabed, is 1.5 m). Due to the new locations of wind turbines in the area TP2-3 and the implementation of cable mitigation measures, we can argue that the MSFD and Habitats Directive objectives have not been compromised in the development of wind farms.



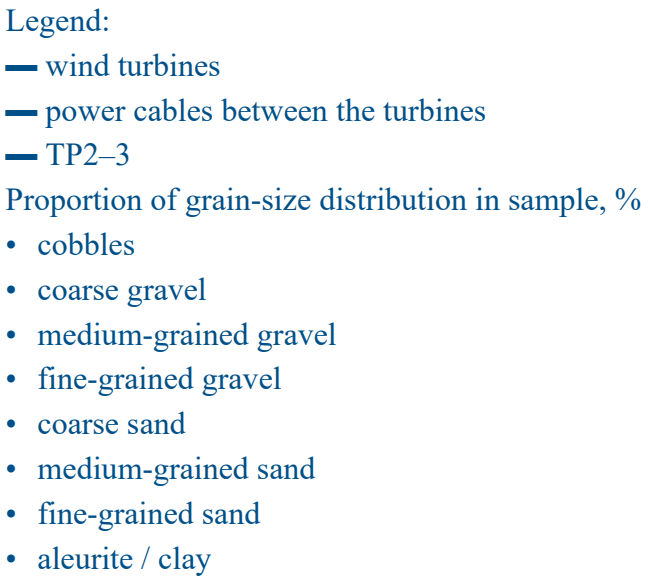


Figure 5. Modified special use of water locations (left) and the proportion of sediment grain-size distribution according to figure 3 (right) of the North West Estonia Offshore Wind Farm Sediment Survey.

The Environmental Board points out that the seabed habitat types in the TP2-3 area were initially surveyed in 2008 and the edges of the original survey area were additionally surveyed in 2014. The results of the original surveys are quite different compared to each other. This is because research methods and interpretation principles (modelling principles) on the basis of which seabed habitat types are determined have improved significantly over time. Thus, the best basis for making decisions is provided by relying on modelled habitat types across Estonia, as data from contemporary surveys on the basis of which modern models have been carried out are also taken as a basis. Pan-Estonian marine habitat modellings (which have also been used in the EIA, eg figure 119) are presented in the paper 'Eesti mereala elupaikade kaardiandmete kaasajastamine' ['Updating the map data of Estonian marine habitats'] (UT Estonian Marine Institute, 2018) and updated data in the paper 'Loodusdirektiivi mereelupaikade seisundi hindamine ja EL Looduse taastamise määruse mereelupaikade piiritlemine' [Assessment of the status of marine habitats of the Habitats Directive and defining the marine habitats of the EU Nature Restoration Law'] (Estonian Maritime Institute of the University of Estonia, 2024). There are no differences in the dataset of the reefs habitat type of the two papers cited in the regions of the considered development areas.

An assessment of the quality of the basic data is also presented in the 2018 paper 'Eesti mereala elupaikade kaardiandmete kaasajastamine' of the TU Estonian Maritime Institute. While the reliability of the 2008 survey dataset is rated as low (1-5 survey points/km^2), the 2014 dataset is rated as medium or high. The darker hue is for marking the area of the habitat type reefs that is modelled on low-reliability base data (see figure 6). It can be seen that from the development area, it constitutes a rather significant and more complex part in decision-making, where it is expected that the microrelief of the seabed or other parameters will largely determine the occurrence of the habitat type. In this area, on the basis of the available data, it is not possible to state unequivocally that by shifting special use of water locations by a few hundred meters to one side or the other,

that the impact either occurs or does not occur.

Thus, since the modelling has been carried out on the basis of limited data, the accuracy of its results must also be approached critically. It is not possible to conclude that if a special use of water location is placed on a pixel of a drawing where the type of habitat is not indicated, then the type of habitat certainly does not occur there in nature either. Thus, the claim that direct damage to the reefs is excluded in the case of modified special use of water locations (ie the locations of the wind turbines) is probably cartographically correct, but doubtful in essence. The new solution presented is partly better than the original one, since the special use of water in the northern area has been abandoned. On the other hand, the new layout also includes the western edge of the area of reefs where no work was planned according to the original application. Thus, with the new layout of the special use of water locations, the area of impact has been extended to another shallow area, which, however, is a rather negative development.

Another aspect is the special use of water in the installation of potential cables. In the area TP2-3, it is not possible to completely avoid the reefs during the special use of water when laying cables inside the wind farm. The impact of the preparation of cable connections can be assessed as equally important as the special use of water in the construction of gravity base foundations (see section 3.4.2.4). According to the developer's data, the cables are to be laid in a trench (which, as a rule, must be considered justified), so cable trenches are established during the special use of water. The 2008 survey ‘Recording of Seabed Biota and Habitats of the Area of the Offshore Wind Park on the North-West Coast of Hiiumaa” (Estonian Marine Institute of the University of Tartu) shows that the seabed substrate in the northern part of Vinkov shallow (a large part of the TP2-3 area, where special use of water is no longer planned according to the updated layout scheme) is composed of carbonate sedimentary rock, but according to a figure presented (with a high degree of generalisation) in the report, such type of seabed can also be found in several southern parts of the area. The cutting of a cable trench into such bottom substrate in the course of the special use of water can be considered a significant damage to the naturalness of the seabed.

In addition, special use of water in the area TP2-3 is also planned in an area where, according to soil texture analyses, the proportion of aleurite and clay fraction reaches 38% (see figure 5, point P02 and p 75 of the EIA report). Thus, the percentage of suspended solids formation remains high — water quality deteriorates during the works, ie the feeding conditions of benthic feeding birds deteriorate. In addition, the suspended solids settle on reefs as well. According to the European Commission's 2025 recommendations [100], temporary deterioration of the environmental status must also be taken into account.

Although the loss of reefs may be somewhat smaller in the case of modified special use of water locations in the area TP2-3, dredging will result a loss and disturbance of reefs and thus the disturbance of feeding conditions of birds. With the new locations, the impact area has also been extended to the adjacent shallow. The areas do not remain natural, and the status deteriorates. The activity causes an environmental threat. Although the area where TP2-3 is located has not been placed under national protection, a proposal has been made for the establishment of a nature conservation area and the area is also an IBA. Thus, the clarification given in sections 3.4.2.4,

3.4.4.4 and 3.5.3 of the order remains relevant. Based on the above, there are grounds for refusing to grant an environmental permit in the area TP2-3.

Figure 6. The darker shade shows the area of occurrence of the habitat type reefs, modelled on low-reliability basic data from 2008, while a lighter shade shows the occurrence area of reefs modelled on 2014 data. Black shows the special use of water locations of the original application, pink shows the modified special use of water locations.

3.9.10. The developer agreed that the installation of the foundations of wind turbines should be planned not along the deep water, since these areas are important for the Baltic herring. At the same time, a state-commissioned Baltic herring sound survey is expected to provide input on the impacts caused by underwater wind turbine noise. Therefore, Enefit Green agrees to address the secondary condition in the environmental permit according to which, if the Baltic herring sound survey reveals circumstances on the basis of which it can be argued that wind turbines have a significant impact on Baltic herring over a period of time, the locations of the wind turbines will be reviewed again during the design process in order to rule out a significant impact on the fish population, or the mitigation measure specified in the EIA will be implemented, namely the shut-down of wind turbines during an important period for Baltic herring. With the mitigation measure it is also agreed that during construction activities, the preparation of wind turbine foundations and the establishment of foundations and the laying of cables inside the wind farm during periods important to Baltic herring are prohibited. A similar measure has also been addressed in the EIA of the Livonian offshore wind farm.

The Environmental Board explains that the measure of placement of the wind turbine is related to the operating noise of wind turbines in the area TP2-3. The environmental permit is refused for development area TP2-3, in addition, the measure is not related to the subject of the environmental permit (dredging, placement of solid substances) and thus the imposition of measures or secondary conditions on the environmental permit is not appropriate. The measure ‘ shut-down

of wind turbines during a period important for Baltic herring' is also not related to the subject of the environmental permit. Measures relating to the special use of water are imposed on the environmental permit (see sections 3.6.11.-3.6.16). The measures are not related to the sound survey of Baltic herring referred to above. Thus, no specialty clauses have to be established.

3.9.11. The developer proposed to take into account the additional bird survey to be carried out at the next stage (simultaneously with the design stage) (section 11.1.3 of the EIA report) also in the establishment of the nature conservation area.

The Environmental Board explains that the establishment of a nature conservation area is a separate process and is not related to the environmental permit procedure, and it is not appropriate to set corresponding requirements in the environmental permit. In addition, we note that at the moment it is not known when the proposals for the establishment of nature conservation areas will be sent to the Environmental Board for further analysis. Before designing, it is necessary to obtain a superficies licence and to the knowledge of the Environmental Board the application for a superficies licence has not been accepted into procedure so far. Therefore, it is not possible at present to assess whether or not the surveys indicated in the EIA report can be taken as a basis for the nature conservation area establishment process. In the process of establishing a nature conservation area, all available information about the conservation values found in the area is taken into account. Thus, if the results of the cited bird surveys are available for the continuation of the process, it is also possible to take them into account.

3.9.12. The developer agreed to conduct additional dredging spoils monitoring before determining the location of the wind turbines in area TP2-3.

The Environmental Board explains that the additional monitoring of dredging spoils in area TP2-3 would not provide information that would prevent or reduce the environmental threat associated with the loss of reefs or the deterioration of the feeding conditions of benthic feeding birds. The purpose of monitoring of the dredging spoils would be to specify the chemical composition of the sediments (including the risk of contamination), since sediments were in a satisfactory condition in certain areas of the TP2-3 development area (sampling point P02). The Environmental Board remains of the view that the permit should be refused for area TP 2-3 (see section 3.9.9). Thus, setting requirements and finding out more precisely the state of the sediments is not justified.

3.9.13. Enefit Green AS explained that it cooperates with the holder of the extraction permit for the deposit regarding the use of the area that overlaps with the sand quarry mining claim in order to find out under what conditions the extraction permit holder agrees with the construction of wind turbines on the exhausted quarry area. The exact locations and details will be clarified during the design stage in cooperation with the extraction permit holder and the Environmental Board. We are aware that it is not possible to build the corresponding wind turbines without the consent of the holder of the extraction permit.

The Environmental Board specifies the secondary condition section 1.4.5, see the reply in section 3.9.5.

3.9.14. Enefit Green AS explained that the values in need of protection within the proposed areas for the establishment of nature conservation areas are: reefs and underwater sandbanks. They are of the opinion that activities that undermine the objectives of the protected area associated with the potential establishment of a nature conservation area should be prohibited. If in the construction of wind farms, a significant negative environmental impact is excluded, the mitigation measures of which are specified in the approved EIA, then there is no need to prohibit the construction of wind turbines in the territory of the nature conservation area. In the opinion of the developer, the above proposal to plan the locations of the wind turbines outside reefs will contribute to this. This will ensure the preservation of the reef habitat type and the development of the wind farm in such a way that the preservation of the natural habitat is guaranteed in the foreseeable future. On the basis of the above reasons and the modified wind turbine locations in the area TP2-3 as presented in this letter, it is requested to take into account the continuation of the environmental permit procedure in the area TP 2-3 and to take into account the proposals set out in the letter when establishing the nature conservation area.

The Environmental Board specifies that the EIA report analysed whether the development would entail significant negative environmental impacts, however, in the case of protected areas the activity must not adversely impact the condition status of the protected object. Thus, the absence of a negative environmental impact does not mean that the protection objectives of the nature conservation area are not jeopardized, and it is also important to take into account already the proposals for the establishment of nature conservation areas (see also section 3.5.3). More recent information than provided in the EIA report has also been taken into account in the granting of the environmental permit (see section 3.5.5). Even if the special use of water locations are changed, it will lead to a loss of reefs, and thus the impact on birds. It is impossible to avoid the loss of reefs and the formation of suspended solids. Thus, the planned special use of water in the area TP2-3 could not be permitted (see further reply to section 3.9.9).

Hiiu Tuul MTÜ

3.9.15. Hiiu Tuul MTÜ pointed out that both at the beginning of the special use of water permit procedure and according to the Planning Act currently in force, the general conditions of use of land and water areas are determined under spatial plan. There is currently no spatial plan. Since there are no suitable areas for the construction of wind farms in the marine area bordering Hiiumaa, it is not possible with an environmental permit to determine the coordinates related to the location of the activity in the environmental permit. It follows from subsections 2 and 4 of § 27 of the Planning Act that in order to install a wind power station with a nominal electricity generation capacity equalling or exceeding 400 megawatts, a national designated spatial plan must be created provided that no thematic spatial plan has been brought into effect that deals with the location of such a construction work in the sea area covered by the spatial plan and provided that no such thematic plan is currently being created. In the Estonian Maritime Spatial Plan: Explanatory Memorandum (p 15) it is stated that the MSP for Hiiu and Pärnu counties remains in force upon the establishment of the National Maritime Spatial Plan. In the Explanatory Memorandum of the Hiiu Maritime Spatial Plan (p 14) it is stated that the spatial plan does not provide for the construction of wind turbines outside the wind energy production area, ie wind

farms cannot be installed in a freely chosen area. Thus, the granting of an environmental permit for the Hiiu marine area is in violation of valid spatial plans, as they do not provide for the construction of wind farms in the marine area bordering Hiiumaa. Consequently, the granting of the environmental permit must be refused under clause 4 of subsection 1 of § 52 of the General Part of the Environmental Code Act which sets out that the issuer of an environmental permit refuses to grant the environmental permit where the proposed activities do not comply with the requirements provided by law.

The Environmental Board provides its explanations in the reply to section 3.9.8. In the comments to the General Part of the Environmental Code Act [101], it is explained that 'since the purpose of granting environmental permits is primarily to deal with environmental issues (see also comments on § 1 of the General Part of the Environmental Code Act), the scope of this provision probably also includes conflicts with other laws of the special part of the Environmental Code. However, clause 4 of subsection 1 of § 52 of the General Part of the Environmental Code Act is not currently an appropriate ground for refusal to grant an environmental permit. This is also supported by the case law of the Supreme Court to date (see section 3.2.2.32).

3.9.16. Hiiu Tuul MTÜ pointed out that section 1.4.1 of the secondary condition of the environmental permit stipulates that the Environmental Board has the right to amend or revoke the environmental permit if, on the basis of the spatial plan and/or the superficies licence, the locations of the offshore wind farms change or the offshore wind farm is not allowed to be built in the area indicated in the environmental permit. Since it is already known at the time of granting the environmental permit that the offshore wind farm is not permitted to be built in the area indicated in the environmental permit, this in itself precludes the granting of an environmental permit, since the environmental permit should be revoked immediately after it has been granted.

The Environmental Board explains once again that the legislation does not provide for the existence of a valid spatial plan as a prerequisite for the granting of an environmental permit (see also section 3.2.2.2), and therefore there is no reason to revoke the environmental permit after it has been granted. Although there is no designated spatial plan, its initiation and that the areas determined under the spatial plan that has been established by the spatial plan procedure overlap or partially overlap with the special use of water area are not excluded. The issuer of an environmental permit revokes the environmental permit where the activity permitted under the permit is not commenced within two years as of the granting of the permit (clause 3 of subsection 1 of § 62 of the General Part of the Environmental Code Act). However, given the complexity of the project, it is proportionate to include preparations such as the spatial plan process or the superficies licence application procedure as part of the works [102]. Thus, as far as the Environmental Board is aware, it is not clear at the moment that the offshore wind farm is not permitted to be built in the area indicated in the environmental permit, the development cannot be considered completely without merit and the environmental permit should not be immediately revoked after it has been granted.

3.9.17. Hiiu Tuul MTÜ drew attention to the fact that section 1.4.4 does not provide for the possibility to revoke the environmental permit based on the monitoring results, only to revise the

conditions of the environmental permit or, if necessary, amend the conditions of the permit. This would unreasonably restrict the permit-issuer in a situation where essential circumstances for carrying out the activity after the environmental permit has been granted become apparent.

The Environmental Board points out that the issuer of an environmental permit may revoke the environmental permit if as a result of the monitoring it becomes evident that the activity permitted under the environmental permit results in an environmental threat or a significant environmental nuisance and the interest in not revoking the environmental permit is not an overriding one, and the public interest or the interest of a third party cannot effectively be protected by amending the permit (clause 2 of subsection 2 of § 62 in conjunction with clause 2 of subsection 1 of § 59 of the General Part of the Environmental Code Act). Thus, the Environmental Board does not consider it necessary to impose a separate secondary condition with regard to revocation.

3.9.18. Hiiu Tuul MTÜ pointed out that the Ministry of Regional Affairs and Agriculture had also found in the environmental permit procedure that the granting of the environmental permit, which does not grant the right to use the marine area or to build a wind farm there, would be in conflict with the valid Hiiu Maritime Spatial Plan. /... /In such a situation, it is also difficult to make a legitimate decision of discretion, since it is impossible to take into account an important fact, that is, there is no answer to the question whether it is possible at all to build a wind farm, which is the subject of a special use of water permit. Therefore, it is their view that before deciding on the granting of an environmental permit, it is necessary to draw up a spatial plan that gives the right to build a wind farm.

The Environmental Board explains that it has acknowledged the necessity of spatial plan in section 3.2.2. However, the Environmental Board lacks the competence and the legal basis to require the initiation of spatial plan. The grounds for refusal to grant an environmental permit have been specified in sections 3.3.1.-3.3.5. Legislation does not provide for the existence of a national designated spatial plan as a prerequisite for granting an environmental permit. The Environmental Board bases its considerations on the special use of water and does not give a final assessment in the environmental permit procedure as to whether it is even possible to build a wind farm at all. If it appears that it is not possible to build an offshore wind farm in the area, the environmental permit will be revoked. It is not possible to establish a wind farm or carry out special use of water work only on the basis of an environmental permit (see section 1.4.1 and 1.4.3).

3.9.19. Hiiu Tuul MTÜ pointed out that a special use of water permit has been applied for one wind farm with a capacity of 1,100 MW. The division of the wind farm into parts leads to the avoidance of necessary decisions at the strategic level, which exacerbates the possibility of an environmental threat. In point 24 of the judgment in administrative matter No 3-16-1472, the supreme court notes that it is important to prevent the use of possible strategies for circumventing the obligations arising from the SEA directive, which may take the form of dividing measures into parts, thereby reducing the beneficial effects of the SEA directive. Hiiu Tuul MTÜ explains that according to the EIA report, wind farms form a single whole with their grid connections and wind turbines.

The Environmental Board explains that the developer has wanted to treat the development areas as separate, including pointing out that they can be operated by different companies (see section 2.12.). In the context of the granting of an environmental permit, this means that the development can be realised in stages. In the case of environmental permits for the special use of water, it is not excluded that a single environmental permit covers several similar installations, sites, areas of operation or sub-units. Thus, in the context of the environmental permit, the fact is not decisive, and it is important that the EIA report analyses the special uses of water related to all the development areas.

3.9.20. Hiiu Tuul MTÜ pointed out that the environmental permit does not comply with clause 6 of subsection 1 of § 52 of the General Part of the Environmental Code Act. The subject of the environmental permit involves an environmental threat that cannot be avoided. There are no overriding reasons and no unavoidable need to build wind farms in the marine area bordering Hiiumaa, as there are other more suitable locations established by alternative spatial plans. In the present procedure, Hiiu Tuul MTÜ has repeatedly [103] drawn attention to the deficiencies revealed during the environmental impact assessment (last in a letter dated 16 May 2025) and therefore there is a real threat that an environmental permit will be granted for an activity that apparently irreversibly damages the status of the Baltic Sea and its ecosystem. A correct strategic assessment of the environmental impact of wind farms has not been carried out in the Hiiu marine area, which is why an environmental permit for the construction of wind farms cannot be granted.

The Environmental Board explains that the subject of this procedure is an environmental permit and therefore the order deals narrowly with the special use of water and the impact resulting therefrom, including possible environmental threats (section 3.4). The impact of special use of water on water quality has already been explained by the Environmental Board in sections 3.4.1.4. and 3.4.1.5. In addition, the TalTech analysis [104] that was completed in August 2025 states that 'In soil sediments of sedimentation accumulation sites, the average amount of potentially released phosphorus is 275 µg P/g, ie 0.9 g P/m². The highest internal phosphorus load is associated with the deeper parts of the Gulf of Livonia, phosphorus potentially released from sediments there can reach up to 1400 µg P/g (station G1), ie per 3.3 g P/m². There is also a high potential for internal phosphorus loading in Narva Bay at 2.6-3.1 g P/m² and in the Väinameri at 1.1-1.4 g P/m². A similar study in the accumulation areas of the Finnish Archipelago Sea and the Stockholm Archipelago yielded an average concentration of 630 µg P/g, ie 3.5 g P/m² for potentially released phosphorus, with corresponding values of 230 µg P/g and 0.6-1.4 g P/m² in the transport zones. The corresponding clarification will be added to section 3.4.1.3. Thus, according to objective information, the special use of water does not involve an environmental threat to water quality. The environmental threat resulting from the special use of water is addressed in sections 3.4.2.4–3.4.2.7, 3.4.4.4, section 3.5.

3.9.21. Hiiu Tuul MTÜ pointed out that in granting an environmental permit, limiting itself only to assessing the activities that are the subject of the water permit does not guarantee adequate protection of the environment. Hiiu Tuul MTÜ welcomes the thoroughness with which the Environmental Board has approached the protection of the seabed. While the EIA report stated

that the proposed action would not have an adverse impact on the status of the habitat type reefs (1170) as specified in the Habitats Directive 92/43/EEC, the Environmental Board pointed out that the status of reefs was assessed by-and-large as unfavourable-inadequate and that they required special protection. However, it remains unclear how the wind farm's adverse impacts arising outside the activities covered by the special use of water permit (operation of wind turbines, visual impact, etc) will be taken into account. These impacts have been described in the EIA report and in a number of opinions submitted during the permit procedure for the North West Estonian Wind Farm.

The Environmental Board explains that the environmental permit regulates dredging, the placement of solid substances at the bottom of the sea below the average water level, and the placement of dredging spoils with the aim of building potential wind turbine foundations and laying cables inside the offshore wind farm. Although, in addition to the impacts of special use of water, the EIA report dealt more broadly with the construction of offshore wind farms (wind turbine towers, blades) and wind farm operation (generation of electricity during the operation of wind turbines) and the impacts associated with these activities, the issues related to the construction of wind turbines and their operation must be addressed at subsequent relevant stages (superficies licence and building permit procedures, potential spatial plan). An environmental permit cannot regulate areas that are not the subject of the environmental permit. However, secondary conditions are imposed, the purpose of which is, among other things, to ensure the completion of subsequent stages before starting the activity.

3.9.22. During the procedure, Hiiu Tuul MTÜ has repeatedly [105] presented its views on the North West Estonia Offshore Wind Farm EIA report. The following observations were made:

3.9.22.1. Insufficient coverage of dredging volumes in the EIA report. The EIA report serves as the basis for issuing a water permit and setting additional conditions. The EIA report must correspond to the EIA program. The EIA program provides for the consideration of the need for dredging and dredging volumes in the construction of the wind farm. According to the EIA report, wind turbines outline alternative 4, ie 20 MW wind turbines, was recognized as the best. The approval of the EIA report includes a decision that wind turbine outline alternative 4 will be implemented upon establishing the wind farm, which is described in the chapter of the EIA report. To prepare the bases for the 20 MW wind turbines, the average removable volumes given by the developer were relied on: a foundation area with a diameter of 60 m and 12,400 m³ of removable soil. The EIA report includes data on the depth of the cable trenches: the diameter of the cable is up to 1 m, for its embedding the following is provided for: either a 2 m trench and soil removal of 4 m³/m (at a depth of/equal to 20 m), or a trench of 2.5 m and soil removal of 5 m³/m (sea depth below 20 m). As for marine cables, an area of up to 1 km wide is considered for a cable corridor in the sea, since there can be 5-13 adjacent cables, depending on the rated power, total number and voltage magnitude of the turbines. All wind turbines are connected to each other by cables and connecting cables from each wind farm area (TP1-TP4) come to Hiiumaa substation, from which 330 kV export cables (1-3) pass through the sea to Aulepa substation. In the work 'Connection of the North West Estonian Wind Farm to the Transmission Network' it is described that the cables are installed in the trench next to each other, in some sections there are more than

one adjacent cable. The EIA report also acknowledges that there are 1-3 parallel-running cables in different sections. Thus, if several cables run side by side in the trench, the cross section of the trench cannot be up to 5 m and the dredging volume up to 5 m^3/m. The EIA report completely lacks data on the length of cable trenches, both cable trenches inside the section and the ones connecting the sections. Thus, the EIA report does not contain data on the volume of dredging required by the EIA program and therefore does not correspond to the EIA program. The EIA report must provide (and disclose) sufficient information on the basis of which decisions can be made on the environmental impact of the activity.

The Environmental Board explains that the Ministry of Climate, as the supervisor of the EIA, has in the decision approving the North West Estonia Offshore Wind Farm EIA report analysed the compliance of the EIA report and the EIA procedure with the requirements laid down in the previous version of the Environmental Impact Assessment and Environmental Management System Act and found that there are no circumstances leading to the non-approval of the EIA report (including that the EIA report is appropriate and sufficient for deciding the granting of a special use of water permit (environmental permit). The Environmental Board specifies the circumstances in sections 3.1.3.-3.1.4 of the order.

Although the EIA report did not specify the specific dredging volumes required for embedding cables, on pages 260-261 the principles for calculating volumes and path diagrams were outlined. Among other things, it was specified that there are cables running in parallel at different sections in terms of export cables, that is, several parallel cable trenches will be built. Within the framework of the EIA report, the formation and spread of suspended solids were modelled, and these data were sufficient to carry out the modelling. The EIA report is based on maximum volumes. Thus, there are starting points for accounting for dredging volumes and these have also been relied on by the developer when submitting the environmental permit application.

3.9.22.2. The determination of the amount of suspended solids is unclear. The EIA report assumes that 10% of the dredged volume will enter/remain in a suspended state. In the analysis of soil texture, it was found that in the west of the development area TP 2, the proportion of aleurite and clay fraction reaches 38% (P02), and in the south of the development area TP 1, in the area of the station P08, the proportion of aleurite and clay fraction reaches 80%, and in the southeast of the development area TP 1 (P10) 45%. More suspended solids are formed by the particles of finer fractions (aleurite and clay). It is therefore inaccurate to consider only 10% of the dredged volume as the amount of suspended solids or it should be justified more precisely. When laying the cable on the seabed, so-called hydroplow and trench-digging technologies are used. Apparently, the use of cable-covering technology (the establishment of cable embedments has been taken into account) is not planned. In the case of both technologies, a high-pressure water jet is used, that is, the material on the seabed is crushed and directed into the aquatic environment at high pressure. With such a methodology, the crushing zone of the cable trench is larger than the planned pit, a lot of fine material and settled substances (including phosphorus) are resuspended or dissolved. The EIA report should indicate the calculation procedure for obtaining the amount of suspended solids from the dredging volume. The amount of suspended solids and sedimentation on the seabed is an important factor damaging to marine life (including spawning

areas for fish) and must be taken into account.

The Environmental Board explains that 10% of soil being released into suspended solids is a value that has been used in the modelling so far in the offshore wind farm EIA reports both in Estonia and elsewhere in the Baltic region[106]. As commissioned by the Environmental Board, in 2025 TalTech prepared a methodology 'Methodology for the Assessment of the Impact on Hydrodynamics and Water Properties (including Water Quality) in the Construction of Offshore Wind Farms in order to harmonize the methodologies for further research. This also includes 10% as a value of soil being released into suspended solids. On page 9 of the EIA report Annex 'Modelling of the spread of suspended solids for the preparation of the North West Estonia Offshore Wind Farm EIA report', the following is specified: 'In the present work, when preparing the scenarios, the assumption is made that in the construction of the foundation of the wind turbines, the sediments will be raised evenly in the water column. To find the amount of sediment type, the result of the solid texture samples from the closest point to the wind turbine was used according to the work'. Thus, the model takes the type of sediment already into account. According to page 18 of the EIA report, 10% is considered to be a conservative assumption and it is explained that different methods of embedding the cable are suitable, that is, even when using a high-pressure water jet, no more than 10% of the soil is released into suspended solids. According to the available information, when using methods involving high-pressure water (hydroplow, jetting, etc), the concentration of suspended solids in the water column is limited to the lower water layer [107], and the concentration of the resulting suspended solids is not significantly higher than with alternative methodologies [108]. Second, the environmental permit is refused to be granted in the part of area TP2-3 where sampling point P02 is located; sampling points P09 and P10 of area TP1 are located outside the special use of water area. Thus, work on the basis of the environmental permit is not planned in areas with a higher proportion of aleurite and clay fraction. Section 3.4.1.4 of the order is also specified accordingly. In addition, the EIA report provides for appropriate monitoring and mitigation measures in relation to suspended solids which will be imposed also on the environmental permit (see also sections 3.7.16, 3.6.10, 3.6.16 of the order). Thus, the EIA report has dealt with the topic of suspended solids to a sufficient extent to allow a decision to be made on the granting of an environmental permit.

3.9.22.3. Failure to reflect on the pollution of export cables in the EIA report and in the water permit is the division of the project into several parts and therefore impermissible. The draft environmental permit states that the environmental permit application does not cover the special use of water related to the installation of export cables. The construction of a wind farm without a network connecting it to the grid is impermissible. Thus, the construction of export cables is an integral part of the North West Estonian Wind Farm. The installation of export cables, wind farm cables and the preparation of the base of the wind turbine are integral parts of a project. Their impact must be assessed cumulatively.

The Environmental Board explains that the EIA report also addressed, among other things, the establishment of export cables and the environmental impact resulting therefrom. Thus, the impact of the activity has been assessed as a whole, and the activity has not been divided into parts during the assessment of impacts. It is clear that the construction of a wind farm without the construction

of a network connecting it to the grid is not justified. The Environmental Board has clarified in sections 3.2.3.4 and 3.2.2.5 that, in addition to this environmental permit, it is necessary to go through various stages (superficies licence, building permit and use and occupancy permit procedure, if necessary, a national designated spatial plan) before it is possible to start building an offshore wind farm. Thus, it is possible to carry out permit procedure related to export cables in parallel with the subsequent stages. Subsection 4 of § 41 of the General Part of the Environmental Code Act sets out that where the activities are spatially or technologically connected, a single environmental permit is granted for these activities. According to the comments to the General Part of the Environmental Code Act [109], the issuer of the environmental permit has discretion to give substance to the requirement. The requests of the applicant are also important when granting a permit. Given that export cables connect offshore wind farms to the electricity network or different offshore wind farms to each other, the special use of water areas are not spatially linked. In addition, there are technological specificities (parallel cables, greater variability of depths, different mitigation measures, etc). Based on the above, the special use of water for different activities can be addressed in different permits. For the sake of clarity, we also include the need for the steps related to export cables in section 3.2.3.4, inter alia, the fact that a separate environmental permit is required for the installation of export cables for special uses of water.

The Environmental Board agrees that, according to the North West Estonia Offshore Wind Farm Sediment Survey, the concentration of heavy metals and general oil products in the area of export cables was not separately determined. However, seabed sediments have not been contaminated in the development areas (see section 3.4.1.5). Concentrations of hazardous substances are likely to be found near ports or shipyards [110], [111], however elevated levels in sediments can also be found offshore (large fairways, deep accumulation areas) [112]. Section 6.10.a. of the HELCOM Guidelines for Management of Dredged Material at Sea state that dredged material may be exempted from testing if there is reason to believe it has not been subject to contamination, ie it is composed of previously undisturbed geological material and in the absence of appreciable past and present pollution sources. Export cables are not located in accumulation areas, export cable corridors sometimes overlap with water traffic areas, but traffic intensity in water traffic areas is rather low. Only in the eastern part of the export cable is the traffic intensity higher (see figures 286 and 287 of the EIA report), while at the same time it is a national water traffic area. Within the framework of the preparation of the report on the North West Estonia Offshore Wind Farm Sediment Survey, sediment analyses were also carried out in areas that overlap with the same water traffic areas (sampling points P05, P06 and P07 in area TP4, sampling points P01 in area TP 2-3, sampling point P11 in area TP1). Sediments were also not polluted at these sampling points. Thus, according to the information available, no significant presence of contaminated sediments is foreseen in the area of the export cables. Compared to the results of the sediment surveys carried out in the Gulf of Finland in 2010-2011, the concentrations of all these hazardous substances in the sediments of the planned wind farm area are at least 2 times lower than in the central part of the Gulf of Finland (EIA report, p 256). Given that a separate environmental permit is required for the special use of water related to the laying of export cables, it is possible, upon granting an environmental permit, to set requirements for sediment analyses in the most traffic-intensive areas. Based on the precautionary principle, additional analyses may be appropriate in

order to reduce the environmental risk, to identify the best position for cables in the cable route area and, if necessary, to avoid areas with contaminated sediments. However, according to the information available, no significant negative environmental impact is foreseen and the EIA report cannot be considered incomplete. The Lithuanian Offshore Wind Farm EIA report [113] also states that the construction of the offshore wind farm and the installation of an export cable will take place in areas dominated by moraine deposits, fine and medium fraction sands, gravel, pebbles and boulders. These areas are not characterized by significant historically formed chemical pollution. Therefore, significant negative consequences for the aquatic environment due to secondary pollution are not to be expected.

3.9.22.4. The appropriate Natura assessment has been superficial. For all three cable connections, export cables run through the marine area of the Nõva-Osmussaare special area of conservation on a 7.3 km stretch. It belongs among the Natura 2000 network sites. The construction of large cable lines through the bird area and special area of conservation violates the integrity of the area and does not meet its protection purpose. Extreme caution is required when it comes to removing and dumping benthic soil, as in all environmental matters. According to the report on the environmental impact assessment of the dredging of the fairway in the port of Pärnu (2012), the dredging of the fairway to a depth of 7.2 m as part of the reconstruction of the fairway and the dumping of the dredged material into the official dumping area of the Pärnu Bay were not expected to have a significant impact on the coastal processes taking place in the Pärnu Bay. Alas, the result was different.

The Environmental Board explains that this environmental permit does not cover the special use of water associated with export cables. In addition, we would like to point out that the activities related to the port of Pärnu took place in a shallow sea area in the Gulf of Livonia, where it is known that the concentration of sediment-bound compounds is higher (see reply to section 3.9.20). It is therefore not appropriate to draw the parallel referred to with the special use of water in the context of this environmental permit.

3.9.22.5. The deterioration of water quality, ie the emission of phosphorus, has not been given sufficient attention. Eutrophication has a negative impact on the socio-economic environment in the form of a reduction in fish stocks. The EIA report notes that the works are accompanied by an additional phosphorus load, but its impact in the context of eutrophication is insignificant against the background of natural variability. The impact is short-term and local. These are conjectures because these claims have not been substantiated. Unfortunately, the EIA does not contain important information regarding the original sources of the data underlying the calculations and the calculation methodology used. Prof Riko Noormets and Martin Liira, Research Fellow at the University of Tartu, express the opinion that according to their data, the data and calculations presented in the EIA are erroneous and significantly underestimate the amount of phosphorus released during the planned activity. The term ‘mobile phosphorus’ has been used, but it is not clear which phosphorus compounds are included in this term and where the phosphorus concentration 10 mg/m², taken as the basis for the calculations presented, came from.

The results obtained on the basis of this, presumably mobile phosphorus concentration, have also been erroneously compared with HELCOM's total phosphorus limits, indicating a significantly

lower environmental impact of the proposed activities. The findings made by marine scientists in their calculations show amounts of phosphorus many times higher than indicated in the EIA report. Thus, the calculations of the EIA report need to be specified so that the progress of the calculations is traceable and unambiguous. It is critical to take into account the release of mobile, or eutrophication-causing, phosphorus from the bottom sediments (in construction and dredging works) and the addition of new phosphorus (in fish farms) when planning various development activities in Estonian marine areas.

The Environmental Board agrees that it is critical to take into account the release of mobile phosphorus from bottom sediments and that the EIA report does not contain information regarding the original sources of the data underlying the calculations and the calculation methodology used. As commissioned by the Environmental Board, in 2025 TalTech prepared a methodology 'Methodology for the Assessment of the Impact on Hydrodynamics and Water Properties (including Water Quality) in the Construction of Offshore Wind Farms' in order to harmonize the methodologies for further research. The Environmental Board has addressed the topic of water quality in section 3.4.1 and is of the opinion that the proposed special use of water does not cause the release of hazardous substances from sediments into the water and does not add P loads that would have a significant impact on the status of the water bodies and compromise the achievement of water protection objectives. A risk to the status of the water body may arise from works in an accumulation area or from the cumulative effects of several large-scale developments (eg several offshore wind farms, offshore fish farms) (see also reply to section 3.9.20). Thus, it is important to emphasize the topic on the addition of developments.

3.9.23. Based on the above, Hiiu Tuul NGO made the following suggestions: (1) refuse to issue an environmental permit for special use of water to Enefit Green AS, because the proposed activity does not comply with the requirements provided bylaw, inter alia, is based on an erroneous EIA report. Alternatively (2), to discuss the matter in a public hearing and suspend the environmental permit procedure until a decision is made on Birdlife Estonia's proposal on the establishment of new marine protected areas in the Hiiu marine area in accordance with subsection 6 of § 8 of the Nature Conservation Act.

The Environmental Board may refuse to grant an environmental permit on specific legal grounds (see section 3.3). According to this order, there are grounds for the refusal to grant an environmental permit for area TP2-3 (see section 3.5). In its discretion, the Environmental Board has taken into account both the results of the EIA report and other available information and only deals narrowly with the special use of water. There are no grounds for refusal to grant an environmental permit for areas TP1 and TP4. In addition, we clarify that there is no basis for suspending the environmental permit procedure until the decision on the establishment of the nature conservation area is made (see section 3.2.4.6). The public hearing was held on 16 October 2025.

3.9.24. Hiiu Tuul MTÜ asked for information in what procedure and how the issues covered in the EIA report are taken into account, which are outside the scope of the environmental permit and on what a decision is allegedly made in future stages (impact on birds, visual impact, etc).

The Environmental Board explains that encumbering a marine area with an offshore wind farm is the subject of superficies licence. Thus, the circumstances related to the construction and operation of the wind farm are addressed in the superficies licence procedure and, if necessary, in the preparation of the spatial plan that is a prerequisite for the licence (see section 3.2.2.5).

The Consumer Protection and Technical Regulatory Authority

3.9.25. The Consumer Protection and Technical Regulatory Authority did not submit any comments or proposals coming from the area of competence to the draft decision on the partial granting of the environmental permit to Enefit Green AS. The Consumer Protection and Technical Regulatory Authority was of the opinion that the construction of the North West Estonian offshore wind farm as proposed by Enefit Green AS is an activity with a significant spatial impact, which means that, pursuant to subsection 2 of § 27 of the Planning Act, the preparation of a national designated spatial plan is mandatory.

The Environmental Board provides its explanations in the reply to section 3.9.8.

Ministry of Climate

3.9.26. The Ministry of Climate pointed out that, taking into account the detailed explanations provided in the draft of 4 August 2025 for clarifying the circumstances and the process so far, they agree with section 1.4.3 of the decision that the environmental protection permit gives the right to special use of water, but does not replace other necessary permits for the construction of a wind farm (including installation of cables inside the wind farm). At this point, however, it should be pointed out that the application for an environmental protection permit (No T-KL/1026040) has been submitted for the purpose of establishing an offshore wind farm on the coast of northwestern Estonia. Thus, it is requested that the environmental permit includes that the activities indicated in the water permit, such as dredging, dumping and the placement of solid substances, are activities related to the building permit for an offshore wind farm and these activities may not be carried out before obtaining a building permit.

The Environmental Board reviewed the order and permit forms comprehensively. The order sets out the concept of special use of water work, special use of water locations and special use of water area (see section 2.12). However, according to Annex 3 to Regulation No 56 of the Minister of the Environment, justification for the activity is also indicated in the environmental permit. In the present case, the justification (objective) of the special use of water work is the construction of a wind farm. Thus, the order and permit also refer to the objective of the special use of water. For the sake of clarity, the secondary condition in section 1.4.3. is specified by adding the following: ‘Special use of water may not be carried out before the relevant permits have been obtained’.

3.9.27. The Ministry of Climate pointed out that by supreme court judgment in matter No. 3-16-1472 the Hiiu County Marine Area Spatial Plan was revoked with regard to wind energy production areas. The developer has submitted an application for a superficies licence for the

construction of an offshore wind farm in the Hiiu marine area in 2010, at present the superficies licence procedure has not commenced. Since the offshore wind park areas in the Hiiu Maritime Spatial Plan have been declared as invalid by a Supreme Court judgment, it is also necessary to prepare a designated spatial plan for finding suitable offshore wind farm areas (subsection 4 of § 27 of the Planning Act).

The Environmental Board provides its explanations in the reply to section 3.9.8.

3.9.28. The Ministry of Climate also made more specific comments on the monitoring requirements contained in the draft environmental permit KL-524863 (V8):

3.9.28.1. Box 'Sampling requirements' section 1 of the permit form requires a detailed monitoring plan to be drawn up and coordinated half a year before the commencement of the monitoring work. As monitoring should be carried out both before the activities under the environmental permit and during the dredging and dumping works (monitoring during special use of water), it is requested that the wording be clarified whether it is intended to be 6 months before the start of the monitoring preceding the special use of water or 6 months before the start of the activities under the permit (monitoring during special use). The wording in section 1.4 of form V16, which requires that a detailed monitoring plan be submitted to the Environmental Board, should also be amended accordingly.

The Environmental Board will supplement the permit form and procedure section 3.7.4 as follows: 'a detailed monitoring plan must be submitted for coordination through the KOTKAS system half a year before the commencement of the monitoring work prior to the special use of water work'. The secondary condition is also specified accordingly (see section 1.4.4). For the sake of clarity, section 3.7.3 of the order states that the monitoring plan must cover monitoring preceding, during and after the special use of water, and both special use of water areas. The specifications will be added also to the permit form.

3.9.28.2. The permit form states that samples must be taken 'according to the current methodology' without further reference where to find it. We would like to point out that the methods of taking samples and observation, which the permit holder must adhere to, must be set out in more detail, at the latest in the detailed monitoring plan to be coordinated. The same remark also applies to the next section 'Analysis requirements', where, in addition to the general wording, reference should be made to more specific legislation, including that the accuracy of the determination of chemical analyses complies with the established requirements, which is particularly important for hazardous substances.

The Environmental Board will specify the detailed part of the monitoring plan in the permit form and order. However, it is not appropriate to refer to legislation or methods on the environmental permit form, as these may change over time. Requirements directly arising from law are not laid down in the environmental permit. For sake of clarity, a more general reference is added to the marine monitoring sub-programme of the National Environmental Monitoring Programme and to the regulations of the Minister of the Environment.

3.9.28.3. In section 1 of section ‘Additional requirements for monitoring’ on the permit form, the text must be comprehensively revised and corrected, since it is written in the context of the construction of wind farms. Similarly, section 2 and 3 require also reviewing.

The Environmental Board will review the sections in the order and permit form concerning the monitoring and makes necessary corrections in line with the submitted proposal. The Environmental Board formulates the monitoring requirements based on the planned special use of water work — dredging, placement of solid substances onto the seabed and beneficial use of dredging spoils. The types of monitoring (draft sections 3.7.6, 3.7.15, 3.7.25) related to the operation of the wind farm were removed.

3.9.28.4. Reference is made to mitigation measures (see sections 3.6.10, 3.6.16) in section 2.1 (spread of suspended solids) under the section ‘Additional requirements for monitoring’ of the permit form. There are no such sections in the section of mitigation measures (in form V16), the spreading of suspended solids is addressed there in section 2.7. The references in section 2.1. are asked to be fixed.

The Environmental Board will adjust the permit form in accordance with the note.

3.9.29. The Ministry of Climate pointed out that under several sections in the permit form V10 ‘Dredging’ installation of cables on the seabed inside the wind farm are addressed. It is pointed out that this activity should not be permitted under the environmental permit (this is also stated in section 1.3 of the draft permit form V16), since no superficies licence has been granted for the construction of the wind farm. Section ‘Chemical properties of dredging spoils’ indicates the concentrations of some pollutants, while under section ‘Monitoring’ there is no requirement for monitoring the composition of seabed sediments (this requirement is also not included in section V8 for monitoring preceding special use). These sections (monitoring requirements for seabed sediments or dredging material) should be harmonised in the special use of water permit.

The Environmental Board will specify the wording on Form V10 with the purpose of the activity also indicated in the permit (see reply to section 3.9.25). The section ‘Chemical properties of dredging spoils’ shows the averaged results of the analyses carried out within the framework of the EIA, since, in accordance with Annex 3 to Regulation No 56, the permit specifies, inter alia, the chemical properties of the dredging spoils. Since, according to objective information, a pollution threat cannot be foreseen, the Environmental Board does not consider it necessary to carry out monitoring of dredging spoils prior to the special use of water.

3.9.30. The Ministry of Climate pointed out that in section 2 of the permit form V16 ‘Measures to reduce the impact of special use of water and their deadlines’, mitigation measures should be formulated throughout the document in such a way that they are not related to the construction of a wind farm, but to reducing the negative impacts of activities under a specific draft environmental permit (see also the notes made on V8 monitoring requirements). It is also incomprehensible why the draft environmental permit of 4 August 2025 talks about permitting the construction of gravity

base foundations, if these are one of the types of foundations with the greatest negative environmental impact, and the final types of foundations should be selected only later, during the superficies licence or wind farm building permit procedure. It is therefore viewed that the provision of the type of foundation in the current draft environmental permit is outside the scope of the permit. V16 section 3.3 (oil spill) once again refers to the construction work of the wind farm — the wording must be aligned with the activities envisaged for the special use of water.

The Environmental Board will review the sections in the order and permit form concerning the mitigation measures and makes necessary corrections in line with the submitted proposal. However, during the preparation of the EIA report, it was clarified that the gravity base foundation is technically the only alternative in the region in question (EIA report p 10). Thus, the environmental permit application is also based on this in determining the scope and volumes of special use of water, and the permit indicates the preparation of the seabed for the base of the gravity base foundation as the purpose of dredging. In addition, it is possible to use the dredging spoils to fill the foundation precisely if the gravity base foundation is used (EIA Report pp 51-52). This is not possible in the case of other foundation alternatives. The Environmental Board is therefore of the opinion that references to the purpose of the special use of water that is farther off as well as to the gravity base foundation are appropriate.

3.10. Public hearing

3.10.1. At the public hearing, the subject of the environmental permit, briefly the proposals received with regard to the draft and the clarifications of the Environmental Board were marked, and it was pointed out whether and how the draft of 4 August 2025 will be amended on the basis of the proposals received. Each proposal was followed by a discussion, details of the discussion are available in the minutes of the public hearing. At the public hearing, new proposals were also put forward, which have not been discussed before. The new proposals will be discussed below.

3.10.2. The Ministry of Economic Affairs and Communications asked to clarify in the draft the conditions under which the environmental permit will remain in effect. The environmental permit should be followed by the submission of an application for the initiation of spatial plan.

At a public hearing, the Environmental Board explained that in accordance with clause 3 of subsection 1 of § 62 of the General Part of the Environmental Code Act the environmental permit is revoked where the activity permitted under the permit is not commenced within two years as of the granting of the permit. If precise conditions were set, the competence of another authority (the Consumer Protection and Technical Regulatory Authority in the case of a superficies licence) would be more or less interfered with. The environmental permit has a secondary condition, according to which the environmental permit does not replace other necessary permits, commencement of the special use of water is not permitted before obtaining the other permits. Obtaining other permits is clearly a cumbersome and time-consuming process. However, preparations for activities that are a prerequisite for the special use of water, such as acceptance of procedure on a superficies licence, submitting an application for initiating spatial plan, initiating spatial plan or submitting an application for a building permit could currently also be considered as a condition for the environmental permit to remain in effect. Accordingly, section

3.5.15 is also specified.

3.10.3. The developer proposes not to refuse the granting of an environmental permit for area TP2-3. It is proposed to permit the special use of water in area TP2-3 and to include corresponding secondary conditions in the permit. The developer specified the possible conditions in a letter dated 21 October 2025 [114]: (1) coordination of the draft building permit with the Environmental Board, (2) imposing an obligation on the developer to carry out a seabed survey and a radar survey of the birds together with an expert assessment to be submitted to the Environmental Board in the building permit procedure, (3) the methodology of the seabed survey and the radar survey of birds must be coordinated with the Environmental Board in advance. The developer explained that before the building permit is granted, it is not possible for the developer to carry out any activity that would damage the seabed or thus the avifauna. A refusal to grant a permit in respect of area TP2-3 in this procedure would therefore also be disproportionate from the point of view of the precautionary principle, as in this case there is no environmental risk that would justify the refusal to grant a permit.

The Environmental Board points out that the decision on the refusal to grant an environmental permit in respect of area TP2-3 has been made on the basis of the existing EIA report and other more recent information. In addition, the negative trend in the reefs habitat and the overlap of the area with the area proposed for the establishment of a nature conservation area are taken into account. In addition, it should be emphasised that the reefs habitats are not the only things important in the area, the area is also important for benthic feeding birds. This is an existing IBA, the status of which must be protected against deterioration. We explain that some ignorance may be perfectly acceptable on a usual seabed, but not in a situation where there are reef habitats, this is an IBA and a proposal for the establishment of a protected area has also been made, and reefs are also identified as a protection objective. Conducting surveys at the design stage is relevant when the absence of a significant negative impact is known and the best layout is sought. The special use of water in any case entails a deterioration in the status of reefs and thus also the feeding and staging area important for birds, resulting in an environmental threat. Moreover, the interest of the state in this area is not known (there is no spatial plan).

Imposing conditions on the environmental permit for surveys in the design stage may not fulfil its purpose. Coordination at the building permit stage would be binding on the decision-maker if a protected area has been established in the area by that time (subsection 1 of § 14 of the Nature Conservation Act). If the protected area has not yet been established, the coordination/non-coordination of the building permit by the Environmental Board is not binding upon the granting of the building permit. In addition, such a condition may be overlooked by another decision-maker, since an environmental permit is not a prerequisite for a building permit. It may happen that the decision-maker does not know that such an obligation has been imposed under some permit. When the developer has already reached the building permit stage, then the expectations regarding the validity of the environmental permit for obtaining a building permit are even higher. What's more, it may be necessary to carry out research earlier, for example in the superficies licence object. It is not justified to set the time when surveys (including bird surveys) take place in an environmental permit, even more so since the environmental permit only regulates the

special use of water. Thus, imposing of the conditions referred to by the developer and the granting of an environmental permit for area TP2-3 is not justified, despite the fact that the special use of water cannot commence before obtaining other permits.

3.10.4. The developer proposes to suspend the environmental permit procedure for area TP2-3 until the protected area and the protection procedure have been established (see further section 3.11).

The Environmental Board explains that in accordance with the general principles of administrative procedure and the case law of the supreme court (judgment No 3-3-1-56-08, point 20, of the Administrative Chamber of the Supreme Court), it is possible to consider suspending the procedure. The suspension of procedure would be appropriate in a situation where there is a risk that an incorrect decision would be taken without suspending the procedure. We explained that it is possible for the developer to submit a written request stating, among other things, why, in the opinion of the developer, an incorrect decision is made if the procedure is not suspended. If there is a reasoned refusal, then there is no reason to suspend the procedure.

3.10.5. Hiiu Tuul MTÜ proposes to suspend the entire environmental permit procedure until a spatial plan is established.

The Environmental Board explains that in accordance with the general principles of administrative procedure and the case law of the supreme court (judgment No 3-3-1-56-08, point 20, of the Administrative Chamber of the Supreme Court), it is possible to consider suspending the procedure. We explain that the special use of water alone does not give the developer the right to build an offshore wind farm, so the granting of an environmental permit at this point does not harm the public interest – it is important to proceed from whether the special use of water causes an environmental threat. It is not justified to suspend the environmental permit procedure if a decision on the special use of water can be made.

3.10.6. The Transport Administration pointed out that the Kärdla airfield is located near the development areas. All areas are located in whole or in part in the procedure area. Appropriate expert assessment is required.

The Environmental Board explains that the subject of the environmental permit is only the special use of water — it is carried out on the seabed. But the fact is important in the context of a superficies licence. Representatives of the Consumer Protection and Technical Regulatory Authority also took part in the discussion – they can take note of the fact.

3.11. On the suspension of procedure in respect of special use of water area TP2-3

3.11.1. On 21 October 2025, the developer submitted a proposal to suspend the environmental permit procedure in respect of area TP2-3 until the establishment of the proposed nature conservation area by the state or a decision not to establish a nature conservation area, since at the moment there is no knowledge in which time frame the nature conservation area is established

and what conditions are provided for in its protection rules. A refusal to grant a permit in respect of area TP2-3 would be disproportionate from the point of view of the precautionary principle, as there is no environmental risk that would justify the refusal to grant a permit.

3.11.2. The Environmental Board explains that the grounds for refusal to grant an environmental permit in respect of area TP2-3 are not related only to the proposal for the establishment of a nature conservation area in the area in question. The considerations have been presented in section 3.5. Therefore, it would not be justified to suspend the environmental permit procedure in respect of area TP2-3 until a decision on the establishment of a nature conservation area is made.

3.11.3. The Environmental Board notes that on the basis of subsection 2 of § 5 of the Administrative Procedure Act, an administrative procedure shall be purposeful, efficient and straightforward and conducted without undue delay, avoiding superfluous costs and inconveniences to persons. Although there are no clear grounds for suspending the environmental permit procedure, or even more so, for its partial suspension, the suspension of the procedure could be considered in accordance with the general principles of administrative procedure if the continuation of the procedure would lead to an incorrect decision on the matter (see also the 16 December 2008 judgment No 3-3-1-56-08, point 20, of the Administrative Chamber of the Supreme Court).

3.11.4. We explain that the decision on area TP2-3 has been made on the basis of the existing EIA report as well as other more recent information, taking into account, inter alia, that in a situation of scientific uncertainty, in environmental matters the precautionary principle must be taken into account. The presence of reefs in the area is not currently in doubt. Even if, by choosing the exact special use of water locations, it would be possible to reduce the actual destruction of the habitat to some extent, it still does not completely eliminate all risks. The shifting of special use of water locations within the development area is limited, it is necessary to take into account other restrictions (fish fauna, cultural values, birds, proximity to airfields, soil composition in the area of sampling point P02, etc), the distance between the wind turbines, the optimal cable layout, etc. At the present time, the nature of all restrictions is not yet precisely in place, as they depend on further research and expert assessments. According to the new locations proposed by the developer, it can be seen that a better solution can be found regarding some special use of water locations, however, the shifting resulted in a poorer placement of some of the locations. Upon changing locations, the area of impact expanded since the special use of water moved to the adjacent shallow as well. Thus, even if it is possible to reduce the loss of reefs to some extent, the special use of water and the establishment of a wind farm in the area of reefs will certainly result in the loss of reefs. Construction technology, as well as subsequent maintenance work, might damage the immediate surroundings and impact the ecological integrity of the reefs. Thus, the special use of water would cause both a loss of reefs, as well as a decline in habitat quality and fragmentation of the reefs habitat. Furthermore, in the area in question, it is not only the reefs habitat individually that is important. The area is very important for the benthic feeding birds that stay and feed there and whose well-being is thus directly linked to the special use of water. This is an existing IBA, and even if the area is not under national protection, the area must be protected against deterioration (see judgment of the Court of Justice in Case C-96/98 Commission v

France). After more detailed studies (seabed habitats, birds, marine mammals, sediment composition of underwater archaeology, etc) and the establishment of nature conservation areas, it may become clear that special use of water and the construction of wind turbines on a significantly smaller scale could be proposed for the area. Although a special use of water must not commence before other permits have been obtained, it is not reasonable to give the developer a false expectation that without an analysis of the complete picture, development in area TP2-3 would be possible to the extent specified in the application. The special use of water in any case entails a deterioration in the status of reefs and thus also the feeding and staging area important for birds, ie a significant negative impact (significant environmental nuisance) that cannot be reduced. The emerging environmental threat must be prevented (see also explanations in sections 3.5.10 to 3.5.14).

3.11.5. The superficies licence application covers, inter alia, the area TP2-3. The area for the wind farm is reserved by a spatial plan, and for a specific developer with a superficies licence. In order to decide on the initiation of the superficies licence procedure, a notice of the received application must be published in the official publication Ametlikud Teadaanded, after which other interested parties may also submit their own application within 20 days (see subsections 3 and 4 of § 22^7 of the previous version of the Water Act). Thus, the granting or non-granting of an environmental permit cannot in any way ensure that other potential interested parties do not apply for a superficies licence for the same location.

3.11.6. The suspension of the environmental permit procedure in respect of area TP2-3 until a decision on the establishment of a protected area would provide some clarity as regards the conservation values, but it is not necessary to suspend the procedure, as the basis for the refusal to grant an environmental permit is not only the proposal for the establishment of a protected area. In the opinion of the Environmental Board, failure to suspend the environmental permit procedure for the area TP2-3 does not lead to an incorrect decision on the environmental permit. The decision to establish or not to establish a protected area alone is not decisive. The environmental permit sets out the maximum scope and volumes of the special use of water. The coverage of reefs in the area is very high, so in this case the granting of an environmental permit may lead to an incorrect decision, that is, the special use of water is allowed in a larger scope and volume than is possible in the area.

3.11.7. Refusal to grant an environmental permit does not, in our opinion, preclude the granting of a superficies licence for the area. An environmental permit is not a prerequisite for the granting of a superficies licence and, in our opinion, it is not possible to refuse to grant other permits for the construction of a wind farm simply because the granting of the environmental permit has been refused. A superficies licence may be refused to be issued if the conditions of the licence applied for are contrary to a spatial plan that is in effect or there is a significant negative environmental impact that cannot be sufficiently avoided or alleviated (clauses 3 and 5 of subsection 1 of § 113^{13} of the Building Code). It is in the competence of the issuer of the superficies licence to consider whether there is sufficient information to issue a superficies licence, including whether the existing EIA report is appropriate, whether spatial plan and SEA or carrying out additional surveys are necessary. If, prior to the issuance of a superficies licence, national designated spatial plan

procedure is conducted, within the framework of which the SEA is also carried out, it may be possible to exclude a significant negative impact on the environment in area TP2-3. In this case, it is possible to request the amendment of the environmental permit - to add to the existing environmental permit the special use of water in area TP2-3. Relevant secondary conditions have also been set for the environmental permit (see sections 1.4.1., 1.4.2.).

3.11.8. Taking into account the reasons and previous explanations provided by the developer, the failure to suspend the environmental permit procedure does not, in the opinion of the Environmental Board, lead to an incorrect decision on the environmental permit, and therefore the suspension is neither necessary nor justified.

3.12. Submission of reporting

The holder of an environmental permit is obliged, in accordance with subsection 1 of § 195 of the Water Act, to submit once a year to the issuer of the environmental permit a report on the activities specified in clauses 1–6, 9, 11, 15 and 18 of § 187 of the Water Act, ie a report on water use. The holder of the environmental permit submits a report if the activity referred to in clause 8 of § 187 of the Water Act takes place on the sea. Thus, a report on water use must be submitted in the case of dredging and placement of solid substances in the sea. The report on water use must be submitted in accordance with subsections 2 and 3 of § 195 of the Water Act and Minister of the Environment Regulation No 6 „Veekasutuse aruande täpsustatud andmekoosseis ja aruande esitamise kord“ [‘Specified List of Data of the Report on Water Use and the Procedure for Submitting the Report’] of 16.01.2020. The report on water use is presented in the environmental decision information system KOTKAS.

[1] Chapter 9 of the North West Estonia Offshore Wind Farm EIA provides a concise ranking of wind farm and undersea cable route alternatives. In the comparison of wind turbine alternatives (when applying mitigation measures), alternative 4 is preferred, followed by alternatives 3, 2 and 1. In the comparison of alternatives to the undersea cable route, alternative 3 is preferred, followed by alternatives 2 and 1.

[2] The rated power of alternative 4 wind turbine according to the North West Estonia Offshore Wind Farm EIA, is 20 MW. In section 2.1 it is explained that ‘for a 20 MW wind turbine, the data have been derived from an expert assessment on the basis of a prototype, since at the time of the preparation of this EIA report, wind turbines of the corresponding capacity are not yet in serial production.’

[3] Minister of the Environment Regulation No 56 ‘Detailed requirements for applications for an environmental permit and the procedure for granting an environmental permit and the datasets for applications for an environmental permit and for environmental permits’ of 23 October 2019. Available at: https://www.riigiteataja.ee/akt/125102019001?leiaKehtiv(16 July 2025).

[4] Registered in the document management system of the Ministry of the Environment on 16 August 2023 under the letter no 7-12/23/3224-8.

[5] Keskkonnaseadustiku üldosa seaduse ja teiste seaduste muutmise seadus 611 SE. Table on the consideration or non-consideration of comments and proposals made in the coordination rounds, p 2. Available at:https://www.riigikogu.ee/tegevus/eelnoud/eelnou/eaf4f10a-51e3-4ec0-b41c-45d3889e1261/

[6] AB Artes Terrae OÜ, 2022. Ruumiline eelanalüüs Hiiu merealal tuuleenergeetika alade planeerimiseks. JOB No. 22084MT1. Available at: https://www.fin.ee/sites/default/files/documents/2023-01/22084MT1%20Hiiu%20merealal%20tuulikute%20planeerimine- L%C3%B5pparuanne_0.pdf (16 July 2025).
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CHALLENGE

This decision may be challenged within 30 days of its announcement by filing a challenge with the issuer of the administrative act pursuant to the procedure provided for in the Administrative Procedure Act or filing an appeal with an administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure.

(signed digitally) Emma
Krikova, Senior Specialist
at the Water Department

Annexes:

1. Environmental permit
2. Special use of water area TP1 and initial special use of water locations
3. Special use of water area TP4 and initial special use of water locations
4. EIA Report of the North West Estonia Wind Farm

For your information: AS TALLINNA SADAM, Estonian Geological Survey, BirdLife Estonia, Hiiumaa Municipality Government, Hiiu Tuul MTÜ, Ministry of Defence, Ministry of Climate, Land and Spatial Development Board, Ministry of Economic Affairs and Communications, National Heritage Board, Police and Border Guard Board, Rescue Board, Ministry of Regional Affairs and Agriculture, Estonian Fund for Nature, Ministry of the Interior, Consumer Protection and Technical Regulatory Authority, Health Board, Transport Administration

Kai Ginter, Senior
Specialist at the Water
Department