

Hornsea Offshore Wind Farm

Project Two

Standard Navigation Conditions – Signposting Document

**Appendix GG to the Response submitted for Deadline I
Application Reference: EN010053**

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smartwind.co.uk

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1. Introduction

- 1.1 In March 2015 the Marine Management Organisation (MMO) provided the Applicant with standard navigation conditions for inclusion within Marine Licences for offshore renewable energy installations agreed by the MMO, Trinity House (TH) and Maritime Coastguard Agency (MCA) in January 2015.
- 1.2 The Applicant has reviewed the standard conditions and notes that the objectives of the majority of the conditions are already achieved by the conditions contained within the Deemed Marine Licences (DMLs) forming part of Version 2 of the draft Development Consent Order (DCO) for Hornsea Project Two. Given that the Project Two DCO is at a fairly advanced stage in that it has been subject to various stages of consultation, and a number of the conditions and requirements are the culmination of lengthy discussions with stakeholders, the Applicant is reluctant to copy the standard conditions verbatim into the DMLs since the specific drafting in the DMLs is often as such for a reason (i.e. due to a defined term in the DCO or DMLs or following agreement with a stakeholder).
- 1.3 Since the objectives of the standard conditions are already largely achieved by the current conditions contained within the DMLs, the Applicant has prepared this document to assist the MMO, TH and MCA in reviewing the DCO and DMLs. This document directs the reader towards the relevant parts of the DMLs where the condition is already covered and it highlights any differences between the standard condition and the condition in the DMLs. Where a standard condition is not presently covered within the DMLs then this is noted in the table together with proposed text to be included in the DMLs in the Version 3 of the DCO, or with a justification explaining why it would not be appropriate to include the condition in the DMLs.
- 1.4 Whilst the Applicant notes that TH and the MCA's preference is for the standard conditions to be used where possible, there are circumstances where the Applicant does not feel that it is appropriate to use the exact wording of the standard condition and the justification for this is set out in the relevant row of the table.

2. Standard navigation conditions: signposting table

	<u>Standard Navigation Condition</u>	<u>Condition in Project Two DMLs</u>	<u>Justification for difference and/or proposed amendments</u>	<u>Stakeholder comments</u>	<u>SMart Wind Response</u>	<u>Status</u>
Notifications and Inspections						
1	The undertaker must inform the MMO Coastal Office in writing at least five working days prior to the commencement of the licensed activities or any part of them.	Included in Condition 7(6): (6) The undertaker must inform the MMO in writing at least five working days prior to the commencement of the licensed activities or any phase of them.	The Applicant will amend the reference to the MMO to the “MMO Coastal Office” in the next version of the draft DCO.	MCA – No comment MMO – Please provide justification for changing ‘phase’ to ‘part’ TH – No comment	The Applicant will amend “phase” to “part” in accordance with the standard condition and will make this change throughout the DMLs (where appropriate in the context) for consistency.	Agreed
2	The Kingfisher Information Service of Seafish, must be informed by email details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part to kingfisher@seafish.co.uk :- a) At least two weeks prior to the commencement of offshore activities, for inclusion in the	First paragraph covered by Condition 7(7): (7) Prior to the commencement of the licensed activities the undertaker must publish in the Kingfisher Fortnightly Bulletin details of the vessel routes, timings and locations relating to the construction of the authorised scheme.	The first part of this condition is covered by Condition 7(7) of the DMLs although it is worded slightly differently. The Applicant is happy to align the wording in the DCO with the standard condition. Sub paragraphs a) and b) are not covered in the DMLs however the Applicant proposes to amend the DMLs to include these conditions subject to a couple of minor tweaks to reflect defined terminology in the DCO.	MCA – No comment MMO – Offshore activities not defined therefore SMW’s change seems sensible. Request consistency with row above in relation to use of terms “phase” and “part”.	The Applicant will ensure that the term “part” is used throughout the DMLs (unless the context requires “phase” to be used e.g. when referring to “construction phase” etc) to ensure consistency.	Agreed

	<p>Kingfisher Fortnightly Bulletin and offshore hazard awareness data, and;</p> <p>b) On completion of all offshore activities Confirmation of notification must be provided to the MMO.</p>		<p>The Applicant will therefore seek to amend Condition 7(7) to the following:</p> <p><i>The Kingfisher Information Service of Seafish, must be informed by email of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part to kingfisher@seafish.co.uk –</i></p> <p><i>a) At least two weeks prior to the construction of the authorised scheme or relevant part, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data, and;</i></p> <p><i>b) On completion of the construction of the authorised scheme or relevant part.</i></p> <p><i>Confirmation of notification must be provided to the MMO.</i></p>	TH – No comment		
3	<p>The undertaker must ensure that a notice to mariners is issued at least 10 working days prior to the commencement of the licensed activities or any part of them advising of the start date of each Work No.(?) and the</p>	<p>Included in Condition 7(8):</p> <p>(8) The undertaker must ensure that a Notice to Mariners is issued at least ten days prior to the commencement of the licensed activities advising of the commencement of licensed activities within the Wind Farm Area and the expected vessel routes</p>	<p>The main difference between the standard condition and the current DML condition is that the standard condition refers to ten <u>working</u> days whereas the DML condition refers to ten days. The Applicant will therefore seek to amend Condition 7(8) of the draft DCO to make</p>	<p>MCA - Agree, it should be 'working days'</p> <p>MMO - TH states that this does not need to be 'working' days.</p> <p>MMO notes the SMW draft provides a more</p>	<p>The Applicant will seek to amend Condition 7(8) of the draft DCO to make reference to ten <u>working</u> days.</p>	Agreed

	<p>expected vessel routes from the local construction ports to the relevant location.</p>	<p>from the local service ports to the location of the works comprised within the authorised scheme.</p>	<p>reference to ten <i>working</i> days. Again, the terminology is slightly different in that the DMLs refer to the commencement of the licensed activities rather than the start date of each Work No. The Applicant is of the view that the reference to licensed activities should remain since this is wider than the specific Work Nos. as it includes associated development as well.</p>	<p>precautionary approach to the notifications. TH to advise. TH – No comment</p>		
4	<p>The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and within five days of any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction program approved under condition <insert>. Copies of all notices</p>	<p>Included in Condition 7(9): (9) The Notices to Mariners must be updated and reissued not less frequently than weekly and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under licence condition 10(2)(a). Copies of all notices shall be provided to the MMO.</p>	<p>The Applicant is of the view that Condition 7(9) of the DMLs sufficiently covers this standard condition. The Applicant notes that the standard condition requires Notices to Mariners to be issued within five days of any planned operations and maintenance works. It is the Applicant's view that this is covered by DML Condition 7(8) (i.e. standard condition 3) referred to above since planned operations and maintenance works are likely to constitute a licensed activity. In addition, the phrase "within 5 days" is a little confusing as it is not clear what is meant by</p>	<p>MCA – It is clearer to leave conditions 3 & 4 separate Should be "at least 5 days" MMO – There may be some works that are not licensable that TH may want a NTM for. TH suggest this should be 'at least 5 days before'. TH to conclusively confirm. TH – No comment on version 1 of this document</p>	<p>The Applicant has taken on board the comments made and will seek to amend condition 7(9) to align with the standard condition (subject to the clarification provided by MCA, MMO and TH regarding timescales): <i>(9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operation and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under licence condition 10(2)(a). Copies of all notices must be provided to the MMO.</i></p>	<p>Agreed</p>

	must be provided to the MMO.		“within” and whether separate notices must be given 10 days before such works under Condition 7(8)/standard condition 3 and again within 5 days under this condition.	In version 2 of this document, TH comment that “for consistency with 3 above, should this be ‘working days’?”	TH’s comment on Version 2 of this document regarding consistency of notification durations (“working days” versus “days”) is acknowledged. Following discussion of this point during a telcon on 09.07.2015 it was agreed that reference to “days” and not “working days” was acceptable and in line with the standard condition.	
5	The undertaker must notify the UK Hydrographic Office of both the commencement (within two weeks), progress and completion (within two weeks) of the authorised scheme in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO.	Included in Condition 7(10): (10) The undertaker must notify— (a) the UK Hydrographic Office of commencement (within two weeks), progress and completion (within two weeks) of the authorised scheme in order that all necessary amendments to nautical charts are made; and (b) the MMO once the authorised scheme is completed and any required lighting or marking has been established.	This condition is very similar to DML Condition 7(10) except that 7(10) does not provide for a copy of the notification sent to the UKHO to be sent to the MMO. The Applicant will therefore seek to amend Condition 7(10) to the following in order to align with the standard condition: <i>(10) The undertaker must notify the UK Hydrographic Office of commencement (within two weeks), progress and completion (within two weeks) of the authorised scheme in order that all necessary amendments to nautical charts are made, and the undertaker must send a copy of such notifications to the MMO.</i>	MCA – No comment MMO - MMO content - this is the same as the standard condition minus the grammatical error ‘both’. TH – No comment	No comment	Agreed
6	In case of damage to, or destruction or decay of, the authorised development	Included in Condition 6: In case of injury to, or destruction or decay of, the authorised scheme or any	The Applicant is of the view that DML Condition 6 adequately covers this standard condition but is happy to include the MMO,	MCA- No comment MMO - MMO content with use of	The Applicant will amend “injury” to “damage” in the next version of the DCO to align with the standard condition.	Agreed

<p>seaward of MHWS or any part thereof the undertaker shall as soon as possible and no later than 24 hours following the identification of damage, destruction or decay, notify MMO, MCA Trinity House and the UKHO.</p>	<p>part of it seaward of MHWS the undertaker must as soon as reasonably practicable, and no later than 24 hours following the undertaker becoming aware of any such injury, destruction or decay, notify Trinity House and must lay down such buoys, exhibit such lights and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.</p>	<p>MCA and UKHO as bodies to be notified in addition to Trinity House as per the standard condition. The Applicant will therefore seek to amend Condition 6 to the following:</p> <p><i>“In case of injury to, or destruction or decay of, the authorised scheme or any part of it seaward of MHWS the undertaker must as soon as reasonably practicable, and no later than 24 hours following the undertaker becoming aware of any such injury, destruction or decay, notify the MMO, Trinity House, MCA and the UK Hydrographic Office and must lay down such buoys, exhibit such lights and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.”</i></p>	<p>‘authorised scheme’ to fit in with DCO definitions. Please provide justification for changing ‘damage’ to ‘injury’.</p> <p>Otherwise this condition should remain as drafted in the standard condition.</p> <p>TH- MCA and UKHO should receive notifications but they should not be included in any Condition which then deals the directing of aids to navigation as this is not the statutory function of either and could lead to confusion about who is responsible for what. The Standard Navigation Conditions (Condition 6 of Notifications and Inspections and Condition 5 of Aids to Navigation) are</p>	<p>In addition, and as requested by TH, the Applicant will move the notification aspect of Condition 6 into Condition 7 (Notifications and inspections). Condition 7(11) will therefore read:</p> <p><i>In case of damage to, or destruction or decay of, the authorised scheme or any part of it seaward of MHWS the undertaker must as soon as reasonably practicable, and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, Trinity House, MCA and the UK Hydrographic Office.</i></p>	
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				<p>drafted in such a way as to keep MCA and UKHO out of the section dealing with Aids to Navigation whilst at the same time avoiding having duplication of a condition saying in one place to notify TH and MMO and in another to notify MCA and UKHO. I would be grateful for your suggestions on how to address this.</p> <p>We also note that you have used the word 'injury' where we have used 'damage' and would ask the reason.</p>		
Pre-construction plans and documents						
<p>The authorised development shall not commence until the following have been submitted to and approved by the MMO. Each</p>	<p>Included in Conditions 10(1) and 12(1)(a):</p> <p>10.—(1) The licensed activities shall not commence until the following (insofar as relevant to that activity or</p>	<p>The Applicant is of the view that DML Conditions 10(1) and 12(1)(a) adequately cover this standard condition.</p>	<p>MCA – No comment</p> <p>MMO - MMO content – this is an overarching part of the pre-</p>	<p>No comment</p>	<p>Agreed</p>	

	<p>programme, statement, plan, protocol, scheme or other detail required to be approved under this condition must be submitted to the MMO for approval at least four months prior to the commencement of the authorised development.</p>	<p>phase of activity) have been submitted to and approved in writing by the MMO—</p> <p>12.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 10—</p> <p>(a) shall be submitted for approval at least four months prior to the intended start of construction, except where otherwise stated or where an alternative date is in writing by the MMO;</p>		<p>construction conditions that applies to all plans (navigational and non-navigational) and provides the same timeframes as the TH wording.</p> <p>TH – No comment</p>		
1	<p>A plan to be agreed in writing with the MMO following appropriate consultation with Trinity House and the MCA setting out proposed details of the authorised development, including the:</p> <p>a) number, dimensions, specification, foundation type(s) and depth for each WTGs, offshore platforms, substations</p>	<p>Included in Condition 10(1)(a):</p> <p><u>DMLs A1 and B1</u></p> <p>(a) To ensure conformity with the description of Work No [1A/1B] and compliance with licence conditions 1 to 3 above, a plan, to be agreed in writing with the MMO in consultation with Trinity House and the MCA, which shows—</p> <p>(i) the proposed location and choice of foundation of all wind turbine generators and offshore accommodation</p>	<p>The Applicant is of the view that DML Condition 10(1)(a) adequately covers this standard condition. Furthermore, DML Condition 10(1)(a) has been carefully drafted with input from stakeholders and it secures various mitigation measures therefore the Applicant is reluctant to amend the wording in case other stakeholders take issue with the change. As mentioned, the Applicant is of the view that the condition as it is currently worded is sufficient to cover the requirements of the standard condition.</p>	<p>MCA – No comment on version 1 of this document.</p> <p>On version 2 of this document the MCA noted that “the condition is for MCA, Trinity House and MMO. MCA's view is that the standard condition has most appropriate wording.</p> <p>MMO - Unclear which other</p>	<p>DML Condition 10(1)(a) has been carefully drafted with input from stakeholders, for example, in relation to the equivalent condition in the Hornsea Project One DCO, Natural England specifically requested reference to micro-siting to be included within this condition. Due to the similarities between Project One and Project Two, the wording of the agreed Project One condition has been used as the starting point for this condition in Project Two and the Applicant has been reluctant to amend it particularly since some of the wording was specifically requested by other stakeholders and in some cases the wording secures mitigation measures.</p>	Agreed

<p>and meteorological masts;</p> <p>b) the grid coordinates of the centre point of the proposed location for each WTG, platform, substation and meteorological mast;</p> <p>c) proposed layout of all cables; and</p> <p>d) location and specification of all other aspects of the authorised development.</p>	<p>platforms, subject to any micro-siting required due to anthropological constraints, environmental constraints, difficult ground conditions or to give adequate spacing between other infrastructure;</p> <p>(ii) the proposed location and height of bridge links;</p> <p>(iii) the height to the tip of the vertical blade, height to the centreline of the generator shaft forming part of the hub, rotor diameter and spacing of all wind turbine generators;</p> <p>(iv) the height, length and width of all offshore accommodation platforms;</p> <p>(v) the length and arrangement of all electrical circuits comprising Work No [1A/1B] subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions;</p> <p>(vi) the proposed dimensions of all monopile foundations;</p>		<p>stakeholders apply here. SMW to provide clear justification as to why this should change from the standard condition.</p> <p>TH – No comment on version 1 of this document.</p> <p>On version 2 of this document TH agreed with the MCA's comment.</p>	<p>Following further discussion during a telcon on 09.07.2015 with the MCA, TH and the MMO the Applicant agreed to consider adopting the standard condition with provision included to refer to micro-siting. The Applicant therefore proposes to replace Condition 10(1)(a) of the DMLs with the following text which adopts the standard condition whilst also making provision for micro-siting:</p> <p><u>DMLs A1 and B1</u></p> <p>A plan to be agreed in writing with the MMO following appropriate consultation with Trinity House and the MCA setting out proposed details of the authorised scheme, including the:</p> <p>(a) number, dimensions, specification, foundation type(s) and depth for each wind turbine generator and offshore accommodation platform;</p> <p>(b) the grid coordinates of the centre point of the proposed location for each wind turbine generator and offshore accommodation platform, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions;</p> <p>(c) proposed layout of all cables, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions; and</p>	
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		<p>(vii) the proposed dimensions of all gravity base foundations;</p> <p>(viii) the proposed dimensions of all jacket foundations; and</p> <p>(ix) the proposed layout of all wind turbine generators and offshore accommodation platforms including all exclusion zones comprised in the licensed activities and showing the indicative programming of particular works as set out in the indicative programme to be provided under paragraph (2)(a).</p> <p><u>DMLs A2 and B2</u></p> <p>(a) To ensure conformity with the description of Work Nos. [2A/2B, 3A/3B, 4A/4B and 5A/5B] and compliance with licence conditions 1 to 3 above, a plan, to be agreed in writing with the MMO in consultation with Trinity House and the MCA, which shows—</p> <p>(i) the proposed location and choice of foundation of all offshore HVAC collector substations, all offshore</p>			<p>(d) location and specification of all other aspects of the authorised scheme, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions.</p> <p><u>DMLs A2 and B2</u></p> <p>A plan to be agreed in writing with the MMO following appropriate consultation with Trinity House and the MCA setting out proposed details of the authorised scheme, including the:</p> <p>(a) number, dimensions, specification, foundation type(s) and depth for each offshore HVAC collector substation, offshore HVDC converter substation and offshore reactive compensation substation;</p> <p>(b) the grid coordinates of the centre point of the proposed location for each offshore HVAC collector substation, offshore HVDC converter substation and offshore reactive compensation substation, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions;</p> <p>(c) proposed layout of all cables, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions; and</p>	
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		<p>HVDC converter substations and all offshore reactive compensation substations, subject to any micro-siting required due to anthropological constraints, environmental constraints, difficult ground conditions or to give adequate spacing between other infrastructure;</p> <p>(ii) the height, length and width of all offshore HVAC collector substations, all offshore HVDC converter substations and all offshore reactive compensation substations;</p> <p>(iii) the length and arrangement of all electrical circuits comprising Work Nos. [2A/2B, 4A/4B and 5A/5B] subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions;</p> <p>(iv) the proposed dimensions of all monopile foundations;</p> <p>(v) the proposed dimensions of all gravity base foundations;</p>			<p>(d) location and specification of all other aspects of the authorised scheme, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions.</p>	
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		<p>(vi) the proposed dimensions of all jacket foundations; and</p> <p>(vii) the proposed layout of all offshore HVAC collector substations, all offshore HVDC converter substations, all offshore reactive compensation substations and all electrical circuits including all exclusion zones comprised in the licensed activities and showing the indicative programming of particular works as set out in the indicative programme to be provided under paragraph (2)(a).</p>				
2	<p>An Aids to Navigational Management Plan to be agreed in writing by the MMO following appropriate consultation with Trinity House specifying how the undertaker will ensure compliance with conditions (1) to (5) of 'Aids to Navigation' from construction and for the lifetime of the project.</p>	N/A	<p>There is no condition at present within the DMLs requiring a Navigational Management Plan to be submitted and approved. The Applicant will therefore seek to include a new sub-paragraph (j) within Condition 10(2) of the DMLs to say:</p> <p><i>(j) an aids to navigational management plan specifying how the undertaker will ensure compliance with Condition 5 (Aids to Navigation) from the start of construction of the authorised</i></p>	<p>MCA – No comment</p> <p>MMO - Typographical error, noted and accepted by TH.</p> <p>10(2) is currently the CoCP and therefore does not reference consultation with TH. Therefore, SMW will need to add drafting within the new sub-</p>	<p>The Applicant notes the typographical error and will ensure this is picked up in the next version of the DCO</p> <p>In relation to the MMO's comment requiring provision for consultation with TH to be included within Condition 10, the Applicant notes that Condition 10(6) will be amended to include a new sub-paragraph (c) to say:</p> <p><i>(6) Prior to giving its approval under paragraph (2), the MMO must—</i></p>	Agreed

			<p><i>scheme seaward of MHWS to the completion of decommissioning.</i></p> <p>Condition 10(6) will then be amended to include a new sub-paragraph (c) to say:</p> <p><i>(6) Prior to giving its approval under paragraph (2), the MMO must—</i></p> <p><i>(c) in relation to a plan submitted under sub-paragraph (j), consult with Trinity House.</i></p>	<p>section to ensure TH are consulted (as in the standard condition).</p> <p>TH – Note typographical error in standard condition. Navigational management plan should read Navigation Management Plan.No Comment</p>	<p><i>(c) in relation to a plan submitted under sub-paragraph (j), consult with Trinity House.</i></p>	
3	<p>No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval for an Emergency Response Co-operation Plan (ERCoP) which includes full details of the ERCoP for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the</p>	<p>Included in Condition 4:</p> <p>4.—(1) No part of the authorised scheme seaward of MHWS is to commence until the Secretary of State, in consultation with the MCA, has given written approval for an Emergency Response and Co-operation Plan which includes full details of the emergency co-operation plans for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations</p>	<p>The Applicant is of the view that DML Condition 4 adequately covers this standard condition but notes that the authorising body in the standard condition is the MMO rather than the Secretary of State. The Applicant will therefore seek to make this change in Condition 4 of the DMLs.</p>	<p>MCA - prefer the standard condition as it is more succinct. Reference to 'MGN 371' should be removed given the stage where are at issuing the new guidance. The document title will not change however.</p> <p>MMO – SMW to provide clear justification as to why this should</p>	<p>It is the Applicant's view that paragraph (1) of Condition 4 adequately covers all of the requirements of the standard navigation condition; however the Applicant will remove the word "and" in "Emergency Response and Co-operation Plan" as requested by the MCA and will amend the authorising body to the MMO.</p> <p>The only difference in the drafting between the conditions is that the standard condition says "an ERCoP which includes full details of the ERCoP..." which the Applicant feels is a little circular thus preferring the current drafting in the DCO of "ERCoP which includes full details of the emergency co-operation plans..."</p>	<p>Agreed</p>

<p>MCA recommendations contained within "Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues". The ERCoP and associated guidance and requirements must be implemented as approved, unless otherwise agreed in writing by the MMO in consultation with the MCA.</p>	<p>contained within MGN 371 "Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues".</p> <p>(2) No authorised scheme seaward of MHWS is to commence until the Secretary of State, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the development, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN 371 "Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues" (including its annexes).</p> <p>(3) The Emergency Response and Co-operation Plan must be implemented as approved, unless otherwise agreed in writing by the Secretary of</p>		<p>change from the standard condition.</p> <p>TH- No comment</p>	<p>The Applicant does not consider the removal of the reference to MGN 371 is appropriate. MGN 371 is the current relevant guidance document and the Applicant would like to retain reference to that MGN in the DCO at present as removing reference to MGN 371 would lead to uncertainty since proposed changes to the guidance are currently unknown. However, since the MCA is a consultee under Condition 4 of the DMLs, the MCA will still be given the opportunity to comment on the ERCoP and may therefore provide comments to the approving body in light of any subsequent guidance that is published.</p> <p>Following further discussion, the MCA have advised that MGN 371 is to be replaced within 3-6 months. This timescale is within the Applicant's Examination. The Applicant agrees to monitor the progress of this and review the wording when the MGN is updated however in the meantime the Applicant will continue to refer to MGN 371 since that is the relevant guidance document at this time.</p> <p>The Applicant notes that the MCA has stated that the MCA prefers the standard condition as it is more succinct. The Applicant has therefore agreed to delete Condition 4(4) since it does not appear in the standard condition (Note that Condition 4(2) is dealt with later in this table).</p>	
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		<p>State, in consultation with the MCA.</p> <p>(4) The undertaker must during the whole period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning provide relevant information to the MCA to assist in the timely and efficient issuing of notices to mariners and other navigational warnings of the position and nature of the works, such information to be provided to mariners in the shipping and fishing industry as well as to recreational mariners.</p>				
Aids to Navigation						
1	<p>The undertaker shall during the whole period of the construction, operation, alteration, replacement or decommissioning of the authorised development seaward of MHWS exhibit such lights, marks, sounds,</p>	<p>Included in Condition 5(1)(a):</p> <p>5.—(1) The undertaker must during the whole period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning—</p> <p>(a) exhibit such lights, marks, sounds, signals and</p>	<p>The Applicant is of the view that DML Condition 5(1)(a) adequately covers this standard condition.</p>	<p>MCA – No comment</p> <p>MMO- No clear justification for deviating from standard condition.</p> <p>However, MMO notes the SMW draft more precisely defines the period.</p> <p>TH to advise.</p>	<p>The Applicant notes that the only real difference between the standard condition and Condition 5(1)(a) is a result of the formatting of the DMLs and the Applicant is of the view that Condition 5(1)(a) adequately covers the standard condition.</p>	Agreed

	signals and other aids to navigation, and to take such other steps for the prevention of danger to navigation as directed by Trinity House.	other aids to navigation and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct;		TH – No comment		
2	<p>The undertaker must keep Trinity House and the MMO informed of progress of the authorised development seaward of MWHS including;</p> <p>a) notice of commencement of construction of the authorised development within 24 hours of commencement having occurred;</p> <p>b) notice within 24 hours of any aids to navigational being established by the undertaker; and</p> <p>c) notice within 5 working days of completion of construction of the authorised development.</p>	<p>Included in Condition 5(1)(c):</p> <p>5.—(1) The undertaker must during the whole period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning—</p> <p>(c) notify Trinity House as soon as reasonably practicable of both the progress and completion of the authorised scheme (or any phase of it) and any aids to navigation established from time to time;</p>	<p>This condition is covered within DML Condition 5(1)(c) although the Applicant notes that the timescales specified in the standard condition do not currently appear in the DML conditions. The Applicant will therefore seek to amend the DMLs to align Condition 5(1)(c) with the standard condition:</p> <p><i>5.—(1) The undertaker must during the whole period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning—</i></p> <p><i>(c) keep Trinity House and the MMO informed of progress of the authorised development seaward of MWHS including:</i></p> <p><i>(i) notice of commencement of construction of the authorised development within 24 hours of commencement having occurred;</i></p>	<p>MCA – No comment</p> <p>MMO – No clear justification for deviating from standard navigation condition. However, MMO notes the SMW draft more precisely defines the period. TH to advise.</p> <p>TH – No comment</p>	<p>The Applicant has agreed to amend Condition 5(1)(c) to align with the standard condition (as set out in the “Proposed Amendments” column). The only residual differences between the standard condition and the amended Condition 5(1)(c) is a result of the formatting of the DMLs.</p> <p>The Applicant is of the view that Condition 5(1)(c) (as per the proposed amendments) adequately covers the standard condition.</p>	Agreed

			<p>(ii) notice within 24 hours of any aids to navigation being established by the undertaker; and</p> <p>(iii) notice within 5 working days of completion of construction of the authorised development.</p>			
3	<p>The undertaker must submit reports quarterly to Trinity House detailing the working condition of aids to navigation. Reports may be submitted more frequently as specified by Trinity House.</p>	<p>Included in Condition 5(1)(d):</p> <p>5.—(1) The undertaker must during the whole period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning—</p> <p>(d) provide reports on the working condition of aids to navigation periodically as requested by Trinity House;</p>	<p>This condition is covered within DML Condition 5(1)(d) although the Applicant notes that there is a minor difference in relation to the frequency in which reports are to be submitted. The Applicant will therefore seek to amend sub-paragraph (d) in the Condition 5(1) of the DMLs in order to align this condition with the standard condition:</p> <p><i>(d) submit reports to Trinity House detailing the working condition of aids to navigation quarterly, or as requested by Trinity House.</i></p>	<p>MCA – No comment</p> <p>MMO – No clear justification for deviating from standard navigation condition. However, MMO notes the SMW draft more precisely defines the period. TH to advise. The MMO confirmed during a call with the Applicant on the 25.06.2015 that this comment could be disregarded as it was made in error.</p> <p>TH – No comment</p>	<p>The Applicant has agreed to amend Condition 5(1)(d) to align with the standard condition (as set out in the “Proposed Amendments” column). The only residual differences between the standard condition and the amended Condition 5(1)(d) is a result of the formatting of the DMLs.</p> <p>The Applicant is of the view that Condition 5(1)(d) (as per the proposed amendments) adequately covers the standard condition.</p>	Agreed
4	<p>The undertaker must notify Trinity House and the MMO of any failure of the aids to navigation including</p>	<p>Included in Condition 5(1)(e):</p> <p>5.—(1) The undertaker must during the whole</p>	<p>The Applicant is of the view that DML Condition 5(1)(e) adequately covers this standard condition.</p>	<p>MCA – No comment</p>	<p>During a call with the MMO and the Applicant on 25.06.2015 the Applicant expressed concerns about the 24 hour timescale for submitting plans for remedying such failures. The MMO</p>	Agreed

	<p>timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the detection of any such failure.</p>	<p>period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning—</p> <p>(e) notify Trinity House and the MMO of any failure of the aids to navigation and the timescales in which such failure will be remedied, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.</p>		<p>MMO – This is not the same as ‘plans for remedying such failures’. The MMO does not recommend constricting this to timescales only.</p> <p>MMO notes the SMW draft more precisely defines detection of failures. TH to advise.</p> <p>TH – No comment.</p>	<p>advised that the ‘plans for remedying such failures’ would encompass a short piece of information about how and when the failure of the aids to navigation would be remedied or alternatively the plan may signpost back to the relevant part of the Navigation Management Plan that includes such details and therefore the 24 hour time period should not be too problematic in practice.</p> <p>The Applicant and the MMO agreed to include a statement in their SoCG to set out what is envisaged by ‘plans for remedying such failures’ and on the basis of this clarification, the Applicant will seek to amend Condition 5(1)(e) in the next version of the DCO to make reference to ‘plans for remedying such failures’.</p>	
5	<p>Should condition (6) of ‘Notifications and Inspections’ be invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.</p>	<p>Included in Condition 6: In case of injury to, or destruction or decay of, the authorised scheme or any part of it seaward of MHWS the undertaker must as soon as reasonably practicable, and no later than 24 hours following the undertaker becoming aware of any such injury, destruction or decay, notify</p>	<p>The Applicant is of the view that DML Condition 6 adequately covers this standard condition.</p>	<p>MCA – No comment</p> <p>MMO – Please provide justification for the use of ‘injury’ over ‘damage’.</p> <p>In addition to Trinity House, MMO, MCA, and the</p>	<p>The Applicant has considered TH’s comments and as detailed earlier in this signposting document, the Applicant will move the notification aspect of Condition 6 into Condition 7 (Notifications and inspections).</p> <p>The Applicant notes that Condition 5(1)(a) of the DMLs states: <i>5.—(1) The undertaker must during the whole period from the start of construction of the authorised scheme</i></p>	<p>Agreed</p>

		<p>Trinity House and must lay down such buoys, exhibit such lights and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.</p>		<p>UKHO should be notified.</p> <p>TH – MCA and UKHO should receive notifications but they should not be included in any Condition which then deals the directing of aids to navigation as this is not the statutory function of either and could lead to confusion about who is responsible for what. The Standard Navigation Conditions (Condition 6 of Notifications and Inspections and Condition 5 of Aids to Navigation) are drafted in such a way as to keep MCA and UKHO out of the section dealing with Aids to Navigation whilst at the same time avoiding having duplication of a condition saying in one place to notify</p>	<p><i>seaward of MHWS to the completion of decommissioning—</i></p> <p><i>(a) exhibit such lights, marks, sounds, signals and other aids to navigation and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct;</i></p> <p>The Applicant therefore submits that the remainder of Condition 6 (i.e. “<i>and must lay down such buoys, exhibit such lights and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct</i>”) can be deleted from the DMLs and that there is no need for the standard condition to be inserted into Condition 5 (Aids to navigation) since Condition 5(1)(a) already provides TH with the necessary powers to direct the undertaker to exhibit such lights, marks, sounds, signals and other aids to navigation and take such other steps for the prevention of danger to navigation as TH sees fit. This condition applies from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning therefore TH has sufficient power under the existing Condition 5(1)(a) to direct the undertaker to exhibit aids to navigation regardless of whether damage, destruction or decay has occurred. Inclusion of this standard condition would create duplication of Condition 5(1)(a) which is sufficiently</p>	
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				<p>TH and MMO and in another to notify MCA and UKHO. I would be grateful for your suggestions on how to address this.</p> <p>We also note that you have used the word 'injury' where we have used 'damage' and would ask the reason.</p>	<p>wide to cover the scenario envisaged by this standard condition.</p>	
Colouring of structures						
1	<p>The undertaker must paint all structures as part of the authorised development seaward of MHWS yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House. Unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).</p>	<p>Included in Condition 5(2): (2) Except as otherwise required by Trinity House under paragraph (1), the undertaker must colour all structures comprised in Work No. [1A/1B, 2A/2B, 3A/3B] submarine grey (colour code RAL 7035).</p>	<p>The Applicant notes that there is no reference to the turbines being coloured yellow within DML Condition 5(2) at present and will therefore seek to amend Condition 5(2) to the following:</p> <p><i>(2) Except as otherwise required by Trinity House under paragraph (1), the undertaker must colour all structures comprised in Work No. [1A/1B, 2A/2B, 3A/3B] yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House. Unless the MMO otherwise directs, the</i></p>	<p>MCA – No comment</p> <p>MMO – What is the rationale for the change in wording from the standard condition</p> <p>TH –No comment</p>	<p>The Applicant will update Condition 5(2) as proposed to make reference to the turbines being coloured yellow. The only difference remaining between Condition 5(2) (as amended) and the standard condition is that Condition 5(2) states “<i>except as otherwise required by Trinity House under paragraph (1),</i>”. This text is necessary as paragraph (1) states that the undertaker must colour all structures in the authorised scheme as directed by Trinity House. By including the additional text in paragraph (2) it means that in the event that TH directs that the turbines shall be coloured differently than as set out in paragraph (2) then that direction shall prevail. If this text were removed from paragraph (2) then it may result in the two conditions being in</p>	Agreed

			<i>undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).</i>		<p>conflict in the event that TH were to direct that the turbines shall be coloured differently than as set out in paragraph (2).</p> <p>The Applicant is therefore of the view that Condition 5(2) (as per the proposed amendments) adequately covers the standard condition and the minor deviation from the standard condition is necessary for the reasons set out above.</p>	
Separate provision						
1	<p>No part of the authorised scheme may commence until the MMO in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the development, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN371 "Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice,</p>	<p>Included in Condition 4(2): (2) No authorised scheme seaward of MHWS is to commence until the Secretary of State, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the development, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN 371 "Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues" (including its annexes).</p>	<p>The Applicant is of the view that DML Condition 4(2) adequately covers this standard condition but notes that the authorising body in the standard condition is the MMO rather than the Secretary of State. The Applicant will therefore seek to make this change in Condition 4(2) of the DMLs.</p>	<p>MCA – The standard condition is preferable. Reference to MGN 371 to be deleted and title of document to be retained.</p> <p>MMO – Authorising body should be amended. Only other difference is stating 'seaward of MHWS' which is more precise.</p> <p>TH to advise if they are content with this.</p> <p>TH – No comment.</p>	<p>The Applicant proposes to amend Condition 4(2) in the next version of the DCO to insert the words "part of the" after "No" and to amend the authorising body to the MMO. These changes will bring Condition 4(2) in line with the standard condition (other than the reference to 'seaward of MHWS' which the MMO has acknowledged is more precise).</p> <p>As noted earlier in the table the Applicant does not consider the removal of the reference to MGN 371 is appropriate. MGN 371 is the current relevant guidance document and the Applicant would like to retain reference to that MGN in the DCO at present as removing reference to MGN 371 would lead to uncertainty since proposed changes to the guidance are currently unknown. However, since the MCA is a consultee under Condition 4 of the</p>	Agreed

	<p>Safety and Emergency Response Issues" and its annexes.</p>				<p>DMLs, the MCA will still be given the opportunity to comment on the ERCoP and may therefore provide comments to the approving body in light of any subsequent guidance that is published.</p> <p>Following further discussion, the MCA have advised that MGN 371 is to be replaced within 3-6 months. This timescale is within the Applicant's Examination. The Applicant agrees to monitor the progress of this and review the wording when the MGN is updated however in the meantime the Applicant will continue to refer to MGN 371 since that is the relevant guidance document at this time.</p>	
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