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Dated 8th November 2016

ENI UK LIMITED

DEADLINE VI SUBMISSION TO THE EXAMINATION OF EAST ANGLIA PROJECT 3

Introduction

1. This submission sets out a summary of the oral case put forward by Eni UK Limited (Eni) at the issue specific hearing on the development consent order held on the 26th October 2016 and responds to the additional points raised by the Examining Authority for the Applicant and Eni to action following the Hearing and provide an update in its Deadline VI Submission.

2. The Examining Authority requested that further discussions should take place between the Applicant and Eni to identify the potential for common ground to be reached on the wording of a protective provision that represented the best achievable position to avoid sterilising either asset. If agreement is not possible then the submission at Deadline VI should set out the respective parties' position and enclose their final proposed draft protective provision. The Examining Authority would benefit from understanding the alternatives considered in reaching that final position.

3. Since the Hearing, the Applicant and Eni have held further discussions by telephone on 2 November and Eni has submitted a revised draft protective provision to the Applicant which attempts to address the Applicant's concerns whilst adequately protecting Eni's interests. The Applicant responded with an amended version on 7 November, and Eni with a further version on 8 November. Drafts of the protective provisions are attached at Appendices 1 to 5. Unfortunately, it has not been possible to reach a mutually agreeable solution and therefore this submission addresses why Eni believe its final submission at Appendix 5 represents a reasonable compromise to allow the Secretary of State to grant development consent for the project whilst protecting Eni's interest.

4. This submission should be read in conjunction with previous submissions submitted by Eni at earlier deadlines.

Principle of a Protective Provision

5. According to the Applicant's own assessment (see ES Chapter 18.6.1.5, para 91) the oil and gas industry is a receptor of national importance. The Applicant's ES considers impacts upon the oil and gas industry and specifically Eni's interest during both the construction and operational phases of the development in Chapters 18.6.1.5 and 18.6.2.5 of the ES respectively. In doing so, it notes in relation to the construction phase:

5.1 At paragraph 92 that "*the phasing of the construction has the potential to impact on some oil and gas activity, in particular, any seismic exploration exercises scheduled within adjacent licence blocks*".

5.2 At paragraph 90, that "*it is difficult to predict the level of impact that the construction of the proposed East Anglia 3 Project would have on future oil and gas activity*".

5.3 At paragraph 92, a conclusion in relation to construction activity, that "*the impact significance of **minor adverse** would apply to both single phase and two phased approaches*". By reference to Table 18.8 in the ES such an impact is described as a "*small change in receptor condition, which may be raised as local issues but are unlikely to be important in the decision making process*".

5.4 At paragraph 88, and throughout other references in Chapter 18.6.1.5, it is clear that this conclusion is reached on the basis that there will be continued consultation with Eni "*to discuss any impacts that may arise from the proposed East Anglia 3 Project and enable any impacts to be mitigated as far as possible. This will ensure that with necessary planning and engagement, disruption due to construction will be avoided*".

6. In respect of impacts during operation, the following is noted:

6.1 At paragraph 109, that "*EATL would continue to engage with any relevant oil and gas developers during operation of the wind farm. This would ensure that with necessary planning and engagement, disruption due to the operation of the proposed East Anglia 3 Project would be avoided*".

6.2 At paragraph 110, as a result of this approach the Applicant concluded that impacts on Eni's interest would be of negligible significance.

7. In summary, it is therefore acknowledged by the Applicant that Eni has a licence to explore and develop a nationally important resource which may be impacted by the East Anglia 3 Project. Its conclusions on impact are based on there being ongoing consultation with the result that the project and Eni's activities can co-exist. As highlighted above, it describes the ongoing planning and engagement (i.e. mitigation measures) as "*necessary*" to underpin the conclusions of its assessment. It has undertaken no assessment of any scenario in which disruption to Eni's activities is unavoidable.

8. In order to ensure that the predicted effects are delivered, the Examining Authority and the Secretary of State must be sure that a mechanism is in place to ensure that "*the necessary planning and engagement*" takes place at the appropriate time such that disruption is "*avoided*". In the absence of a commercial agreement, the only way in which that can be achieved is, in Eni's view, through the incorporation of appropriate provisions within the DCO.

Potential Impacts on Eni's Interests

9. Eni's concerns are set out in its written representations submitted at Deadline II. In summary, these relate to the ability to carry out its operations safely, and impacts on its ability to search for and develop the resource within the P.1965 licence area.

10. In respect of Mobile Offshore Drilling Units (MODUs), fixed installations and other infrastructure such as Floating Storage and Offloading vessels (FSOs) and pipelines, a safety zone of at least 500m is anticipated to be required from the outer periphery of the relevant infrastructure. This is borne out of the Petroleum Act 1998 and associated regulations.

11. MODU siting will also include the requirement to plan for locating drilling rigs for the purposes of constructing relief wells, should that be required, including the attendant requirements for safety zones.

Surveys will be required for the siting of drilling locations and associated wells, construction of fixed installations, FSO vessels, pipeline routes in order to characterise the physical and the nature/extent of environmental conditions and sensitivities, which in turn may dictate the specific location needed (including the requirements for approvals with regard to environmental sensitives, marine or subsurface hazards etc.). Surveys will involve the use of a range of survey equipment, deployed from vessels (fixed on the vessel or towed behind it), including recovery of physical seabed samples. Survey areas for MODUs or fixed installations will typically be 2km x 2km but may vary dependant on activity and conditions. Surveys for the purposes of evaluating and determining pipeline routes cannot currently be specified, but may require a corridor of up to 2km or more.

12. Marine vessel and helicopter access will also be required. For helicopters, CAA CAP 764 Policy & Guidelines on Wind Turbines, in particular Chapters 2 and 3, should be utilised to establish required safety separation, with a minimum 1NM radius around each platform anticipated will be needed to be kept free of wind turbines, and a minimum 1NM wide access corridor maintained through the array to provide safe access, egress and management of emergency situations. Sections 3.30 to 3.36 of CAP 764 establish the requirement for a consultation zone of 9NM radius around offshore helicopter destinations for both established developments and planned developments, as well describing the rationale for a minimum 1NM Helicopter Main Route (HMR) corridor (Section 3.34). It is possible that the HMR could be combined with any safety zone relating to pipeline installation. It is envisaged that normal marine operational requirements could be accommodated within the safe areas required for helicopter operations.

13. The detailed offshore design parameters for the wind farm are set out in Requirement 2 in Part 3 of Schedule 1 of the draft DCO. These specify that no wind turbine shall:

13.1 exceed a rotor diameter of 220 metres; and

13.2 be less than 675 metres from the nearest wind turbine generator in either direction perpendicular to the approximate prevailing wind direction (crosswind) or be less than 900 metres from the nearest wind turbine generator in either direction which is in line with the approximate prevailing wind direction (downwind). The Requirement notes that these separation distances are references to the centre point of the turbines.

14. Consequently, it is conceivable that the minimum spacing of turbines (blade tip to blade tip) throughout the area of interaction with Eni's licence area P.1965 could be 455 metres (crosswind) or 680 metres (downwind). Were that to be the case, then Eni would not be able to explore, appraise and/or develop the resource in accordance with its rights under the licence. In addition, the Applicant will require its own safety zones during construction and operation as set out in Chapter 15 of the ES.

15. From this, it is clear that any mitigation measures for protection of Eni's interests must have effect prior to the approval of any layout details, and prior to construction commencing. They cannot be left until later (or until the operational phase as the ES suggests) as by then it will be too late to ensure co-existence. However, it is Eni's view from an analysis of the minimum parameters against its requirements that a satisfactory layout within the area of overlap to enable both projects to co-exist should be achievable without undue impact on the Applicant's proposals.

National Policy Statement and other material considerations

16. The potential for conflict between the development of offshore wind farms and oil and gas exploration is recognised by NPSEN-3 at paragraphs 2.6.176 to 2.6.188.

17. In accordance with Section 104 of the Planning Act 2008, the Secretary of State must decide the application in accordance with the relevant National Policy Statement except to the extent that one or more of sub-sections (4) to (8) apply. Eni does not contend that any of those sub-sections apply to this issue. Furthermore, the Act also directs the Secretary of State to have regard to any relevant marine policy documents.

18. Eni would draw attention to the following aspects of the NPS:

18.1 Paragraph 2.6.179 requires an assessment not only of the effects on existing infrastructure, but also on activities for which a licence has been issued by the Government (as is the case for Eni).

18.2 Paragraph 2.6.181 requires stakeholder engagement to continue throughout the life of the development with the aim "*to ensure that solutions are sought that allow offshore wind farms and other uses of the sea to successfully co-exist*".

18.3 Paragraph 2.6.183 indicates that the Secretary of State should "*expect the Applicant to minimise negative impacts and reduce risks to as low as reasonably practicable*" where the proposed development potentially affects Eni's activities.

18.4 Paragraph 2.6.184 directs that the Secretary of State must be satisfied that "*site design of the proposed offshore wind farm has been made with a view to avoiding or minimising disruption or economic loss or any adverse effect on safety to other offshore industries*".

18.5 Paragraph 2.6.185 directs that the Secretary of State must give substantial weight where a proposed development is likely to affect the future viability or safety of a licenced offshore activity. This requirement applies to the consideration of impacts on Eni's future activities.

19. Consequently, in the absence of any measures within the DCO to secure the appropriate protection for Eni's interests to be accommodated within the final site layout, the Secretary of State will have to acknowledge that due to the parameters highlighted above there may be an effect on both the viability and safety of Eni's licenced activities to the extent that they may be prevented in their entirety and that is a matter to which he must give substantial weight in reaching his decision.

20. However, it is Eni's position that such considerations can be avoided if protective provisions are put in place.

21. Furthermore, policy GOV 2 the East Inshore and Offshore Marine Plan (2014) directs that "*opportunities for co-existence should be maximised wherever possible*" and paragraph 267 of the accompanying explanatory text states "*Proposals should demonstrate the extent to which they will co-exist with other existing or authorised (but yet to be implemented) activities and how this will be achieved*."

22. All of the above indicates why it is necessary for a protective provision to be included within the DCO, and Eni notes that similar issues were grappled with during the examination of the Hornsea 2 Wind Farm which resulted in the Examining Authority recommending that a protective provision be included to safeguard E.ON's future activities under a UK petroleum production licence. A discussion of the Hornsea 2 position is addressed further below, but at this stage, Eni would note that it firmly establishes the principle that a protective provision is both necessary and appropriate to protect future activities under an issued licence. Further consideration then needs to be given to the terms of such a provision which we comment on further below.

Oil and Gas Clause

23. The Applicant has suggested that there is no need for a protective provision because the oil and gas clause in the Crown Estate Lease carries with it an expectation set out in related DECC guidance that the Secretary of State will expect the parties to reach a commercial agreement such that an application to invoke the oil and gas clause may only be made if that has not proved possible. Eni reject this approach for the following reasons:

23.1 According to the Ministerial Statement, the oil and gas clause will only be considered at the point that the Minister has to give further consent for the development of the resource, following the exploration and appraisal phases and consideration of a detailed field development plan. In addition, paragraph 7 of the Guidance sets out evidence that must be provided in order for the clause to be operated. This includes evidence of why the oil and gas development cannot proceed without determination of the wind farm lease, and includes information on alternative locations, options for co-existence and technical solutions, and why those have been ruled out. Again, this will not be possible until the final development phase, and long after the Applicant has said that it will have needed to finalise its layout. It is therefore not a satisfactory position either for Eni, nor the Applicant.

23.2 The use of the oil and gas clause mechanism pre-supposes that it is not possible for the two developments to co-exist. That is not the position which the Applicant has advanced and assessed in its ES, nor is it the position which Eni advance if protective provisions can be included to ensure that the wind farm development is brought forward in a manner which enables co-existence. Similarly, nor does it comply with the requirement of the National Policy Statement referred to above which directs the Secretary of State to consider these issues now in determining the wind farm application, and ensure that adequate mitigation measures are secured. In Eni's view, had it been Parliament's or the Secretary of State's view that the operation of the oil and gas clause was sufficient to protect the interests of oil and gas developers, then it would have said so in either the National Policy Statement or the DECC guidance.

23.3 The compensation payable, should the oil and gas clause be invoked successfully, would be at a level that could be prohibitive to the development of the resource. This would simply mean that Eni may not apply to exercise the clause in the first place.

24. Consequently, the oil and gas clause mechanism is based around a premise which both the Applicant and Eni argue should not exist, and will operate in a context where it is not possible to achieve the policy outcomes envisaged by the sections of EN-3 noted above. Therefore, the threat of the oil and gas clause should not be perceived as sufficient to ensure that the required engagement takes place between the Applicant and Eni at the appropriate time.

Timetable of Eni's activities

25. Eni's activities under licence P.1965 are essentially split into three distinct phases as follows:

25.1 An initial term of 4 years during which Eni is obliged to drill an exploration well within the area of licence P.1965 or (the adjacent) licence P.1964.

25.2 Subject to the completion of the initial term work programme, the licence may then continue for a further period of 4 years (the second term) to allow Eni to appraise any discoveries arising from exploration. In order to move into this phase, there is a mandatory requirement for Eni to relinquish 50% of the licenced area. It is by no means certain that this would include part of the area of overlap. The licence will expire at the end of the second term unless the Oil & Gas Authority has approved a development plan.

26. The third term (production phase) runs for a period of 18 years following the end of the second term.

27. Therefore it is clear that there is an overlap in timescales between the wind farm and the exploration, appraisal and potential development of the resource. It is not possible for Eni to commit to reducing any of the above timescales.

28. In the absence of a protective provision, Eni would experience significant uncertainty as to whether it could develop the resource on a viable basis in the future.

Hornsea Two

29. As alluded to above, it is Eni's position that the recommendation of the Examining Authority to the Secretary of State in Hornsea Two creates a precedent as to the principle of a protective provision being appropriate to protect Eni's interests. The similarities are as follows and are by reference to the conclusions in the Examining Authority's report, the relevant extract of which is attached at Appendix 6:

29.1 Both Eni and E.ON hold licences which permit future exploration, appraisal and development (the latter subject to ministerial approval) – para 10.5.15

29.2 Neither Eni nor E.ON had certain plans around the extent of its future activity – para 10.5.27 and 10.5.53

29.3 The national and marine policy context is the same – paras. 10.5.17-19

29.4 E.ON had the ability to rely on the oil and gas clause to terminate the Applicant's interest

29.5 In the absence of any protection there was the prospect of E.ON's future activities being prevented by the wind farm development.

30. During the Hearing and in subsequent discussions the Applicant has sought to distinguish the circumstances in Hornsea Two from the current situation. Specifically, it has mentioned:

30.1 That the extent of the E.ON protected area related to known prospects

30.2 That the protected area represented the minimum amount of flexibility required for its activities

30.3 That the extent of the protected area only affected 20% of the array area. Whilst E.ON had a prior right of approval in the proposed protective provision, the Applicant's position is that that was a reasonable balance in those circumstances. In this case the area of proposed overlap would be greater.

31. Eni has considered these issues in proposing its revised protective provisions below. However, it would re-iterate that in its view the principle of a protective provision to

protect its interests is established. The question is to find an appropriate formulation which balances the interests of both parties.

Protective Provisions and progress since the Hearing

32. Eni submitted its original draft Protective Provision on 19th October 2016. This is attached at Appendix 1. The Applicant responded with its own version at Appendix 2. This was not satisfactory to Eni as it amounted to little more than an obligation to consult. There was no mechanism to ensure that the Applicant's project would be brought forward in a way to ensure co-existence.

33. Following the Hearing, the Applicant and Eni held a further meeting by telephone on 2 November 2016. This explored the potential for a workable protective provision to be reached which was fair to both parties. It is Eni's understanding that the Applicant's primary concerns with a protective provision are:

33.1 That Eni could not be given a veto over the Applicant's proposals;

33.2 That in the absence of detailed proposals from Eni it was difficult to see how the Applicant, or any Arbitrator who might be appointed to consider the issue would have any more information as to Eni's requirements than are currently available. It was concerned that Eni could therefore legitimately withhold its consent under the proposed provision to preserve its own flexibility; and

33.3 That any approval or arbitration process should not delay the progress of the Applicant's project to the prejudice of its commercial interests under the potential CfD programme.

34. Eni has considered these points, and the comments made by the Examining Authority at the Hearing regarding equality of arms in any protective provision, identifying an early point at which Eni's requirements could be defined having regard to the Applicant's delivery programme and CfD timetable requirements. With that in mind, Eni submitted a revised protective provision to the Applicant for comment at Appendix 3. This protective provision attempted to address the Applicant's concerns, and the comments made by the Examining Authority as follows:

34.1 A significantly compressed protected area (a plan of which is identified at Appendix 5) targeted at specific areas of prospectivity within the area of overlap between licence area P.1965 and the array area.

34.2 The inclusion of a requirement on Eni when consulted by the Applicant to provide details of its minimum requirements (including any exclusion zones) to explore, appraise and develop the resource.

34.3 Provides a timetable for the process.

34.4 That Eni may not withhold its consent to any layout proposed where there are no unacceptable effects on its activities, nor where the proposal submitted allow its activities to successfully co-exist by minimising the negative impacts upon them and reducing risks as low as reasonably practicable. This accords with the requirements of the National Policy Statement highlighted above.

34.5 In circumstances where Eni does withhold its approval, it then has to provide written reasons by reference to details of its minimum requirements (including any exclusion zone) to explore, appraise or develop the resource.

34.6 Any dispute as to whether Eni have validly withheld their approval, which would include a consideration of whether their minimum requirements are reasonable, can be referred to arbitration in accordance with the provisions included within the draft DCO at Article 33. In the event that such approval has in the opinion of the Arbitrator not validly been withheld then Eni shall be deemed to have approved the proposals.

35. The Applicant responded at Appendix 4. This still did not give the necessary assurance that there is a mechanism in place following consultation to ensure that Eni's interests will be protected. Eni therefore responded with its final version at Appendix 5.

36. It is Eni's view that its proposals accord with the requirements and policy aims set out in paragraphs 2.6.176 to 2.6.188 of National Policy Statement EN-3 and provide a clear mechanism for any disputes about whether they do so to be referred to an independent Arbitrator as anticipated by paragraph 2.6.188 so as to ensure that reasonable co-existence of the projects as envisaged by the Applicant's Environmental Statement which is referred to above. This process is to be assessed against Eni's reasonable minimum requirements for exploration, appraisal and development of the resource and Eni believes it strikes a fair and appropriate balance between the interests of both parties.

Appendix 1

Eni draft Protective Provision

26 October 2016

For the protection of the licensees from time to time of United Kingdom Petroleum Production Licence P.1965, unless otherwise agreed in writing between the undertaker and the Licensees, the provisions of this Part of this Schedule have effect.

In this part of this Schedule –

"apparatus" means any:

(a) infrastructure which is or may be installed, owned, occupied or maintained by, or on behalf of the Licensees; or

(b) exploration, appraisal, development and decommissioning activities (and associated logistics activities), which are or may be carried out by, or on behalf of the Licensees,

in connection with the Licence;

"applicable laws" means applicable laws, rules, orders, guidelines and regulations, including without limitation, those relating to health, safety and the environment and logistics activities such as helicopter and vessel operations;

"Good Oilfield Practice" means the application of those methods and practices customarily used in good and prudent oil and gas field practice in the United Kingdom Continental Shelf with that degree of diligence and prudence reasonably and ordinarily exercised by experienced operators engaged in the United Kingdom Continental Shelf in a similar activity under similar circumstances and conditions;

"Guidance" means the 'Oil and gas clause in Crown Estate leases, Guidance on procedures for independent valuation where necessary' published by the then Department of Energy and Climate Change in June 2014, or any similar supplementary or replacement policy;

"Licence" means United Kingdom Petroleum Production Licence P.1965;

"Licensees" means the licensees from time to time of the Licence;

"Ministerial Statement" means the written statement given by the then Secretary of State for Energy and Climate Change to the UK Parliament regarding Crown Estate Leases for Offshore Renewables Projects on 12 July 2011, or any similar supplementary or replacement policy;

"plans of the proposed works" means an indicative construction programme and a plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart which shows

(i) the proposed location and choice of foundation of all offshore electrical stations;

ii) the height length and width of all offshore electrical stations;

(iii) the length and arrangement of all cables comprising Work Nos. 3 and 5A;

(iv) the dimensions of all gravity base foundations;

(v) the dimensions of all jacket foundations;

(vi) the proposed layout of all offshore electrical stations including any archaeological exclusion zones;

(vii) any exclusion zones/micrositing requirements; and

(viii) any other details as reasonably required by the Licensees;

"the Protected Area" means any area within the area coloured [ ] on the Protective Provisions Plan within which the Licensees have, or plan to have, apparatus, (that area coloured [ ] being delineated by a line drawn between the points in the Table of Co-Ordinates);

"the Reduced Protected Area" means any area within the original Protected Area within which the Licensees have, or plan to have, apparatus – such, subject to sub-paragraph (3), to be notified by the Licensees to the undertaker on or before 31 December 2020 and to represent the Licensees' good faith determination of the smallest area within the original Protected Area required by the Licensees to locate, at reasonable cost, apparatus in accordance with Good Oilfield Practice and applicable laws;

"the Protective Provisions Plan" means the plan entitled Protective Provisions Plan for the Licensees and certified as the Protective Provision Plans for the Licensees for the purposes of this Part of this Schedule;

"the Table of Co-Ordinates" means the following table:

Label	Latitude	Longitude
[ ]	[ ]	[ ]
[ ]	[ ]	[ ]

(1) Subject to sub-paragraph (3), the undertaker must not construct any of the authorised project or the marine licence works (including the laying of any anchor or the laying of any chains or cables) within the Protected Area without having first:

(a) submitted to at least [24] months prior to the intended start of construction plans of the proposed works within that area and entered into discussions with the Licensees in respect of:

(i) the plans of the proposed works;

(ii) the Licensee's apparatus within the Protected Area;

(iii) any potential interface between the plans of the proposed works and the Licensee's apparatus, including risks to safety;

(iv) seeking solutions to allow the plans of the proposed works and the Licensee's apparatus to coexist as far as reasonably practicable; and

(v) where necessary entering into a private agreement between the undertaker and the Licensees in respect of the proximity of the plans of the proposed works and the Licensee's apparatus; or

(b) failing entry into a private agreement referred to in sub-paragraph 1(a)(v), obtained approval from the Licensees in respect of such plans of the proposed works within that area, such approval not to be unreasonably withheld or delayed and which approval can only be withheld or delayed where necessary for the protection of apparatus but which may be granted subject to reasonable conditions.

(2) To the extent that sub-paragraph (1)(b) applies, the undertaker must construct the authorised project and the marine licence works in accordance with the plans approved by the Licensees under sub-paragraph (1)(b) and any terms and conditions reasonably specified by the Licensees when approving those plans.

(3) Sub-paragraph (1) only applies to the extent that the Licence extends to the Protected Area or if later until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the Licence and taking place within the Protected Area.

(4) On and from 1 January 2021, references in this Part of the Schedule to “the Protected Area” shall be deemed to be references to “the Reduced Protected Area”.

(5) Nothing in this Part of the Schedule shall affect any assessment of compensation in accordance with the Ministerial Statement and the Guidance (as applicable).

Appendix 2

Applicant's 1st draft Protective Provision

For the protection of the licensees from time to time of United Kingdom Petroleum Production Licence P.1965, unless otherwise agreed in writing between the undertaker and the Licensees, the provisions of this Part of this Schedule have effect.

In this part of this Schedule –

"apparatus" means any:

(a) infrastructure which is or may be installed, owned, occupied or maintained by, or on behalf of the Licensees; or

(b) exploration, appraisal, development and decommissioning activities (and associated logistics activities), which are or may be carried out by, or on behalf of the Licensees,

in connection with the Licence;

"applicable laws" means applicable laws, rules, orders, guidelines and regulations, including without limitation, those relating to health, safety and the environment and logistics activities such as helicopter and vessel operations;

"Good Oilfield Practice" means the application of those methods and practices customarily used in good and prudent oil and gas field practice in the United Kingdom Continental Shelf with that degree of diligence and prudence reasonably and ordinarily exercised by experienced operators engaged in the United Kingdom Continental Shelf in a similar activity under similar circumstances and conditions;

"Guidance" means the 'Oil and gas clause in Crown Estate leases, Guidance on procedures for independent valuation where necessary' published by the then Department of Energy and Climate Change in June 2014, or any similar supplementary or replacement policy;

"Licence" means United Kingdom Petroleum Production Licence P.1965;

"Licensees" means the licensees from time to time of the Licence;

"Ministerial Statement" means the written statement given by the then Secretary of State for Energy and Climate Change to the UK Parliament regarding Crown Estate Leases for Offshore Renewables Projects on 12 July 2011, or any similar supplementary or replacement policy;

"plans of the proposed works" means an indicative construction programme and a plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart which shows

(i) the proposed location and choice of foundation of all offshore electrical stations;

ii) the height length and width of all offshore electrical stations;

(iii) the length and arrangement of all cables comprising Work Nos. 3 and 5A;

(iv) the dimensions of all gravity base foundations;

(v) the dimensions of all jacket foundations;

(vi) the proposed layout of all offshore electrical stations including any archaeological exclusion zones

(vii) any exclusion zones/micrositing requirements;

"the Protected Area" means any area within the area coloured [ ] on the Protective Provisions Plan within which the Licensees have, or plan to have, apparatus, (that area coloured [ ] being delineated by a line drawn between the points in the Table of Co-Ordinates);

"the Reduced Protected Area" means any area within the original Protected Area within which the Licensees have, or plan to have, apparatus – such, subject to sub-paragraph (2), to be notified by the Licensees to the undertaker on or before 31 December 2020 and to represent the smallest area within the original Protected Area required by the Licensees to locate apparatus in accordance with Good Oilfield Practice and applicable laws;

"the Protective Provisions Plan" means the plan entitled Protective Provisions Plan for the Licensees and certified as the Protective Provisions Plan for the Licensees for the purposes of this Part of this Schedule;

"the Table of Co-Ordinates" means the following table:

Label	Latitude	Longitude
[ ]	[ ]	[ ]
[ ]	[ ]	[ ]

(1) Subject to sub-paragraph (2), the undertaker must not construct any of the authorised project or the marine licence works (including the laying of any anchor or the laying of any chains or cables) within the Protected Area without having first submitted to the Licensees at least [ ] months prior to the intended start of construction plans of the proposed works within that area, and entered into discussions with the Licensees in respect of

(i) the plans of the proposed works

(ii) the Licensee's apparatus within the Protected Area

(iii) any potential interface between the plans of the proposed works and the Licensee's apparatus, including risks to safety

(iv) seeking solutions to allow the plans of the proposed works and the Licensee's apparatus to coexist as far as reasonably practicable

(v) where necessary entering into a private agreement between the undertaker and the Licensees in respect of the proximity of the plans of the proposed works and the Licensee's apparatus.

(2) Sub-paragraph (1) only applies to the extent that the Licence extends to the Protected Area or if later until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the Licence and taking place within the Protected Area.

(3) On and from 1 January 2021, references in this Part of the Schedule to "the Protected Area" shall be deemed to be references to "the Reduced Protected Area".

(4) Nothing in this Part of the Schedule shall affect any assessment of compensation in accordance with the Ministerial Statement and the DECC Guidance (as applicable).

(5) This Part of the Schedule shall automatically terminate in circumstances where the Licensees and the undertaker enter into a private agreement covering, *inter alia*, the subject matter referred to herein.

Appendix 3

Eni draft Protective Provision

5 November 2016

For the protection of the licensees from time to time of United Kingdom Petroleum Production Licence P.1965, unless otherwise agreed in writing between the undertaker and the Licensees, the provisions of this Part of this Schedule have effect.

In this part of this Schedule –

"apparatus" means any:

(a) infrastructure which is or may be installed, owned, occupied or maintained by, or on behalf of the Licensees; or

(b) exploration, appraisal, development and decommissioning activities (and associated logistics activities), which are or may be carried out by, or on behalf of the Licensees,

in connection with the Licence;

"applicable laws" means applicable laws, rules, orders, guidelines and regulations, including without limitation, those relating to health, safety and the environment and logistics activities such as helicopter and vessel operations;

"Good Oilfield Practice" means the application of those methods and practices customarily used in good and prudent oil and gas field practice in the United Kingdom Continental Shelf with that degree of diligence and prudence reasonably and ordinarily exercised by experienced operators engaged in the United Kingdom Continental Shelf in a similar activity under similar circumstances and conditions;

"Guidance" means the 'Oil and gas clause in Crown Estate leases, Guidance on procedures for independent valuation where necessary' published by the then Department of Energy and Climate Change in June 2014, or any similar supplementary or replacement policy;

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"plans of the proposed works" means an indicative construction programme and a plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart which shows

(i) the proposed location and choice of foundation of all offshore electrical stations;

ii) the height length and width of all offshore electrical stations;

(iii) the length and arrangement of all cables comprising Work Nos. 3 and 5A;

(iv) the dimensions of all gravity base foundations;

(v) the dimensions of all jacket foundations;

(vi) the proposed layout of all offshore electrical stations including any archaeological exclusion zones;

(vii) any exclusion zones/micrositing requirements; and

(viii) any other details as reasonably required by the Licensees;

"the Protected Area" means any area within the area coloured [ ] on the Protective Provisions Plan within which the Licensees have, or plan to have, apparatus, (that area coloured [ ] being delineated by a line drawn between the points in the Table of Co-Ordinates);

"the Reduced Protected Area" means any area within the original Protected Area within which the Licensees have, or plan to have, apparatus – such, subject to sub-paragraph (6), to be notified by the Licensees to the undertaker on or before 31 December 2020 and to represent the Licensees' good faith determination of the smallest area within the original Protected Area required by the Licensees to locate, at reasonable cost, apparatus in accordance with Good Oilfield Practice and applicable laws;

"the Protective Provisions Plan" means the plan entitled Protective Provisions Plan for the Licensees and certified as the Protective Provision Plans for the Licensees for the purposes of this Part of this Schedule;

"the Table of Co-Ordinates" means the following table:

Label	Latitude	Longitude
[ ]	[ ]	[ ]
[ ]	[ ]	[ ]

(1) Subject to sub-paragraph (6), the undertaker must not construct any of the authorised project or the marine licence works (including the laying of any anchor or the laying of any chains or cables) within the Protected Area without having first:

(a) submitted, no earlier than 36 months prior to the intended start of construction, plans of the proposed works within that area and entered into discussions with the Licensees in respect of:

(i) the plans of the proposed works;

(ii) the Licensees' apparatus within the Protected Area;

(iii) any potential interface between the plans of the proposed works and the Licensees' apparatus, including risks to safety;

(iv) seeking solutions to allow the plans of the proposed works and the Licensees' apparatus to coexist as far as reasonably practicable (and for these purposes, the Licensees shall provide reasonable details of apparatus and minimum requirements, such as exclusion zones in accordance with Good Oilfield Practice and applicable laws, to enable the Licensees to, as relevant, explore, appraise, and/or develop hydrocarbon resources within the Protected Area); and

(v) entering into a private agreement between the undertaker and the Licensees in respect of the proximity of the plans of the proposed works and the Licensees' apparatus; or

(b) failing entry into the private agreement referred to in sub-paragraph 1(a)(v) within six months following the commencement of consultation under sub-paragraph (1), obtained approval from the Licensees in respect of such plans of the proposed works within that area, such approval not to be unreasonably withheld and which approval can only be withheld where necessary for the protection of apparatus.

(2) The Licensees may not withhold approval under sub-paragraph 1(b) where the proposed works do not have any unacceptable effects on the apparatus or the plans of proposed works allow the Authorised Development and the apparatus to successfully co-exist by minimising the negative impacts on the apparatus and reducing risks as low as reasonably practicable in accordance with Good Oilfield Practice and applicable laws.

(3) If the Licensees withhold approval in accordance with sub-paragraph 1(b), the Licensees must, within one month following receipt of the plans of the proposed works under sub-paragraph 1(b), provide a written statement of reasons for doing so by reference to reasonable details of apparatus and minimum requirements, such as exclusion zones in accordance with Good Oilfield Practice and applicable laws, to enable the Licensees to, as relevant, explore, appraise and/or develop hydrocarbon resources within the Protected Area. If the Licensees fail to notify the undertaker of their decision within such period, then the Licensees shall be deemed to have approved the plans of the proposed works.

(4) Any dispute or difference concerning whether approval has been withheld in accordance with sub-paragraph 1(b) shall be referred to arbitration in accordance with Article 33 and in order to inform the arbitration, the Licensees shall make available the statement of reasons and other information specified in sub-paragraph (3). In the event that the arbitration determines that approval was not withheld in accordance with paragraph 1(b) then the Licensees shall be deemed to have approved the plans of the proposed works.

((5) To the extent that approval has been given under sub-paragraph (1)(b), the undertaker must construct the authorised project and the marine licence works in accordance with the plans approved by the Licensees under sub-paragraph (1)(b) and any terms and conditions reasonably specified by the Licensees when approving those plans.

(6) This Part of the Schedule only applies to the extent that the Licence extends to the Protected Area or if later until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the Licence and taking place within the Protected Area. Without prejudice to any other rights or obligations under this Part of the Schedule, the Licensees shall from time to time keep the undertaker informed of its activities in relation to the Licence, such that the Licensees and the undertaker may seek solutions to allow the proposed works and the Licensees' apparatus to successfully co-exist as far as is reasonably practicable.

((7) On and from 1 January 2021, references in this Part of the Schedule to "the Protected Area" shall be deemed to be references to "the Reduced Protected Area".

(8) Nothing in this Part of the Schedule shall affect any rights or obligations or assessment of compensation in accordance with the Ministerial Statement and the Guidance (as applicable).

Appendix 4

Applicant's Protective Provision

7 November 2016

Appendix 5

Eni's final draft Protective Provision

8 November 2016

For the protection of the licensees from time to time of United Kingdom Petroleum Production Licence P.1965, unless otherwise agreed in writing between the undertaker and the Licensees, the provisions of this Part of this Schedule have effect.

In this Part of this Schedule –

"apparatus" means any:
(a) infrastructure which is or may be installed, owned, occupied or maintained by, or on behalf of the Licensees; or

(b) exploration, appraisal, development and decommissioning activities (and associated logistics activities), which are or may be carried out by, or on behalf of the Licensees,

in connection with the Licence;

"applicable laws" means applicable laws, rules, orders, guidelines and regulations, including without limitation, those relating to health, safety and the environment and logistics activities such as helicopter and vessel operations;

"Good Oilfield Practice" means the application of those methods and practices customarily used in good and prudent oil and gas field practice in the United Kingdom Continental Shelf with that degree of diligence and prudence reasonably and ordinarily exercised by experienced operators engaged in the United Kingdom Continental Shelf in a similar activity under similar circumstances and conditions;

"Guidance" means the 'Oil and gas clause in Crown Estate leases, Guidance on procedures for independent valuation where necessary' published by the then Department of Energy and Climate Change in June 2014, or any similar supplementary or replacement policy;

"Licence" means United Kingdom Petroleum Production Licence P.1965;

"Licensees" means the licensees from time to time of the Licence;

"Ministerial Statement" means the written statement given by the then Secretary of State for Energy and Climate Change to the UK Parliament regarding Crown Estate Leases for Offshore Renewables Projects on 12 July 2011, or any similar supplementary or replacement policy;

"plans of the proposed works" means an indicative construction programme and a plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart which shows

(i) the proposed location and choice of foundation of all offshore electrical stations;

(ii) the height length and width of all offshore electrical stations;

(iii) the length and arrangement of all cables comprising Work Nos. 3 and 5A;

(iv) the dimensions of all gravity base foundations;

(v) the dimensions of all jacket foundations;

(vi) the proposed layout of all offshore electrical stations including any archaeological exclusion zones; and

(vii) any exclusion zones/micrositing requirements;

“the Protected Area” means any area within the area coloured green on the Protective Provisions Plan within which the Licensees have, or plan to have, apparatus, (that area coloured green being delineated by a line drawn between the points in the Table of Co-Ordinates);

“the Reduced Protected Area” means any area within the original Protected Area within which the Licensees have, or plan to have, apparatus – such, subject to sub-paragraph (5), to be notified by the Licensees to the undertaker on or before 31 December 2020 and to represent the Licencees' good faith determination of the smallest area within the original Protected Area required by the Licensees to locate, at reasonable cost, apparatus in accordance with Good Oilfield Practice and applicable laws;

“the Protective Provisions Plan” means the plan entitled Protective Provisions Plan for the Licensees and certified as the Protective Provisions Plan for the Licensees for the purposes of this Part of this Schedule;

“the Table of Co-Ordinates” means the following table:

Area	Label Point	Latitude X (European Datum 1950 UTM Zone 31N)	Longitude Y (European Datum 1950 UTM Zone 31N)
1	A	483,799.57	5,834,052.15
	B	494,193.52	5,830,959.70
	C	490,468.86	5,823,847.11
	D	483,750.96	5,823,832.51
2	E	500,000.00	5,846,795.24
	F	502,637.55	5,847,084.40
	G	500,000.00	5,842,047.75

(1) Subject to sub-paragraph (5), the undertaker must not construct any of the authorised project or the marine licence works (including the laying of any anchor or the laying of any chains or cables) within the Protected Area without having first submitted to the Licensees not less than at least 24months prior to the intended start of offshore construction plans of the proposed works within that area, and entered into discussions with the Licensees in respect of:

(i) the plans of the proposed works;

(ii) the Licensees’ apparatus within the Protected Area;

(iii) any potential interface between the plans of the proposed works and the Licencees' apparatus, including risks to safety;

(iv) seeking solutions to allow the plans of the proposed works and that apparatus to coexist as far as reasonably practicable (and for these purposes the Licencees shall provide reasonable details of apparatus and minimum requirements such as exclusive zones in accordance with Good Oilfield Practice and applicable laws to enable the Licencees to, as relevant, explore, appraise, and/or develop hydrocarbon resources within the Protected Area); and

(v) where requested by either the undertaker or the Licensees, entering into a private agreement between the undertaker and the Licensees in respect of the proximity of the plans of the proposed works and that apparatus.

(2) If sub-paragraph (1)(v) applies and the no private agreement has been entered into, the undertaker must obtain approval from the Licensees of its plans of proposed works to the extent that they interact with the Protected Area. The Licensees will respond to any request for approval within one month and may only withhold consent where necessary for the protection of apparatus. If the Licensees fail to respond within such period, they shall be deemed to have approved the plans of the proposed works.

For the avoidance of doubt, the Licensees may not withhold consent where the proposed works do not have any unacceptable effects on the apparatus or the plans of proposed works allow the Authorised

Development and the apparatus to successfully co-exist by minimising the negative impacts on the apparatus and reducing risks as low as reasonably practicable in accordance with Good Oilfield Practice and applicable laws. Where the Licensees wish to withhold approval, they must provide a written statement of reasons for doing so by reference to reasonable details of apparatus and minimum requirements, such as exclusion zones in accordance with Good Oilfield Practice and applicable laws, to enable the Licensees to, as relevant, explore, appraise and/or develop hydrocarbon resources within the Protected Area.

(3) Any dispute or difference concerning whether approval has been withheld in accordance with sub-paragraph (2) shall be referred to arbitration in accordance with Article 33 and in order to inform the arbitration, the Licensees shall make available the statement of reasons and other information specified in sub-paragraph (2). In the event that the arbitration determines that approval was not withheld in accordance with sub-paragraph (2) then the Licensees shall be deemed to have approved the plans of the proposed works.

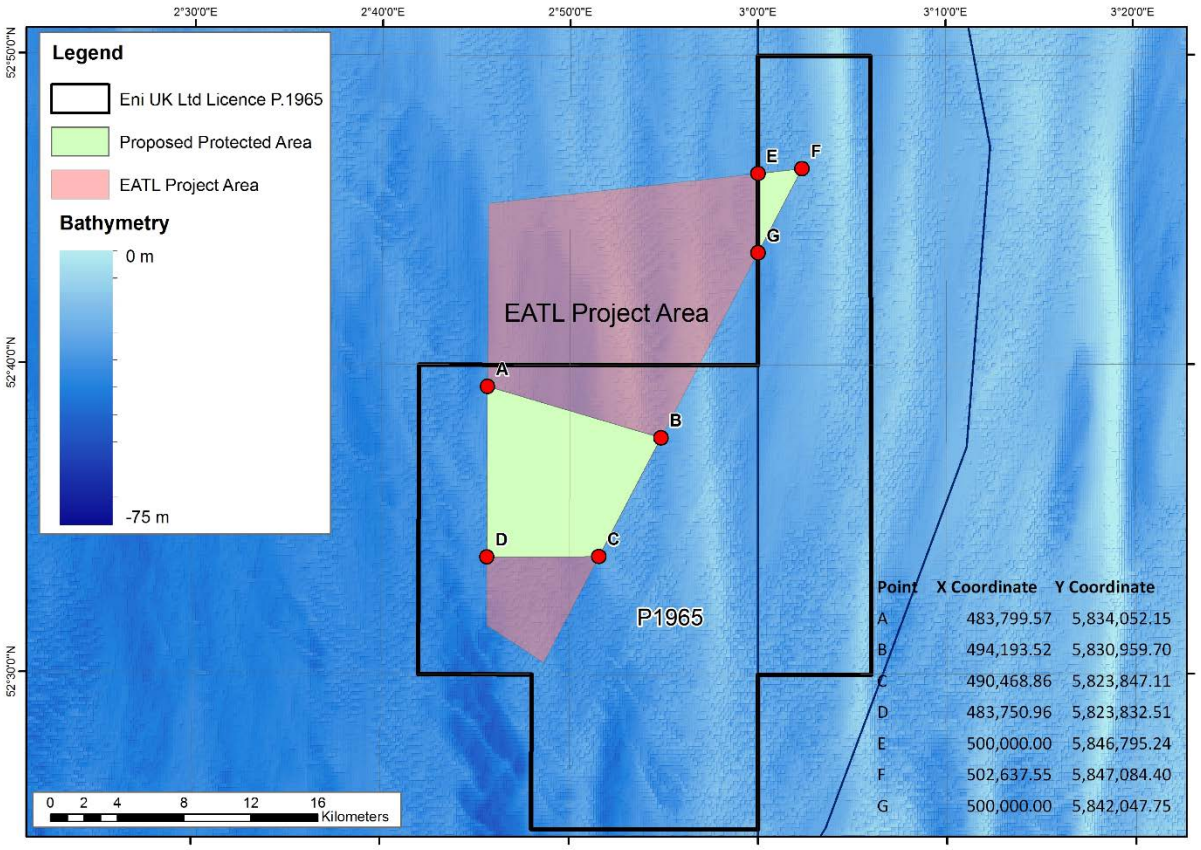
(4) To the extent that approval has been given or is deemed to have been given under sub-paragraph (2) or (3), the undertaker must construct the authorised project and the marine licence works in accordance with the plans approved by the Licensees under sub-paragraph (2).

(5) This Part of this Schedule only applies to the extent that the Licence extends to the Protected Area or if later until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the Licence and taking place within the Protected Area. Without prejudice to any other rights or obligations under this Part of the Schedule the Licencees shall from time to time keep the undertaker informed of its activities in relation to the Licence such that Licencees and the undertaker may seek solutions to allow the proposed works and the Licencees apparatus to successfully co-exist as far as is reasonably practicable or if later until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the Licence and taking place within the Protected Area.

(6) On and from 1 January 2021, references in this Part of the Schedule to “the Protected Area” shall be deemed to be references to “the Reduced Protected Area”.

(7) Nothing in this Part of the Schedule shall affect any rights or obligations or assessment of compensation in accordance with the Ministerial Statement and the DECC Guidance (as applicable).

(8) This Part of the Schedule shall automatically terminate in circumstances where the Licensees and the undertaker enter into a private agreement covering, *inter alia*, the subject matter referred to herein.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52°30'0"N
Legend
Eni UK Ltd Licence P.1965
Proposed Protected Area
EATL Project Area
Bathymetry
0 m
-75 m
EATL Project Area
P1965
A
B
C
D
E
F
G
0 2 4 8 12 16
Kilometers
Point X Coordinate Y Coordinate
A 483,799.57 5,834,052.15
B 494,193.52 5,830,959.70
C 490,468.86 5,823,847.11
D 483,750.96 5,823,832.51
E 500,000.00 5,846,795.24
F 502,637.55 5,847,084.40
G 500,000.00 5,842,047.75

Appendix 6

Extract from Hornsea Two Examining Authority Report