

Hornsea Project Three
Offshore Wind Farm



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Schedule of Changes Development Consent Order and Deemed Marine Licences

Date: 7th November 2018


Hornsea 3
Offshore Wind Farm



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Front cover picture: Kite surfer near a UK offshore wind farm © Ørsted Hornsea Project Three (UK) Ltd., 2018.

Table of Contents

1. Schedule of Changes to the Draft Development Consent Order and Deemed Marine Licences Submitted at Deadline I 1

List of Tables

Table 1.1 Schedule of Changes to the DCO and DML Submitted at Deadline I 1

1. Schedule of Changes to the Draft Development Consent Order and Deemed Marine Licences Submitted at Deadline I

Table 1.1 Schedule of Changes to the DCO and DML Submitted at Deadline I

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
Draft DCO Preamble				
		Examining Authority	<p>The second paragraph on page 3 of the dDCO [APP-027] includes the words ‘which has made a report to the Secretary of State section 74(2) of the 2008’.</p> <p>Please review this sentence as it may have some words missing.</p>	<p>The application was examined by the Examining Authority, which has made a report to the Secretary of State <i>under</i> section 74(2) of the 2008 Act.</p>
PART 1 Preliminary				
Article 2 - Interpretation		MMO, Natural England and Examining Authority	<p>MMO Comment: “The interpretation of ‘commence’ for both the DCO and DMLs excludes offshore site preparation works. The definition for ‘Offshore Site Preparation Works’ specifically includes surveys and monitoring but also sandwave levelling and boulder clearance. Such a definition also has the potential to include Unexploded Ordnance (UXO)</p>	<p>“commence”, means, (a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for operations consisting of offshore site preparation works, pre-construction monitoring surveys approved under the deemed marine licences, and (b) in respect</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>clearance and other works. The MMO considers that offshore preparation works should be included in the interpretation of 'commence'."</p> <p>Natural England Comment: "Additional to the concerns on arbitration, Natural England cannot agree to the definition of 'offshore preparation works' as currently provided within the draft DCO and DMLs. The definition allows works such as sandwave levelling and boulder clearance to be conducted without any regulatory oversight or control of the methodology. These works form a significant part of the impact of the project, including a significant part of the impact to designated sites, and must be subject to appropriate regulatory review and sign off prior to any works commencing."</p> <p>Examining Authority comment: "The definition of 'commence' in Article 2 refers to 'site preparation works' in respect of the onshore works. Should this refer to 'onshore site preparation works' as this is a defined term in the dDCO?"</p>	<p>of any other works comprised in the authorised project, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than <i>onshore</i> site preparation works and the words "commencement" and "commenced" must be construed accordingly; ...</p> <p>"offshore site preparation works" means any activities within the Order limits seaward of MHWS undertaken prior to the commencement of construction to prepare for construction, including but not limited to surveys, monitoring, boulder clearance and sandwave clearance;</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
Article 2 - Interpretation		Natural England	<p>The DMLs have proposed the inclusion of a mitigation condition for harbour porpoise in the Southern North Sea cSAC/SCI similar to that included in Hornsea Project Two. Natural England notes that a Marine Mammal Mitigation Protocol will be provided to remove the risk of potential death and/or injury to marine mammals. In addition, the Project should have a Site Integrity Plan – a live document, which needs to be updated prior to construction to inform the relevant authority’s Appropriate Assessment of disturbance to harbour porpoise.”</p> <p>The DMLs have proposed the inclusion of a mitigation condition for harbour porpoise in the Southern North Sea cSAC/SCI similar to that included in Hornsea Project Two. Natural England notes that a Marine Mammal Mitigation Protocol will be provided to remove the risk of potential death and/or injury to marine mammals. In addition, the Project should have a Site Integrity Plan – a live document, which needs to be updated prior to construction to inform the relevant authority’s Appropriate Assessment of disturbance to harbour porpoise.</p>	<p><i>"In principle Hornsea Three Southern North Sea Site of Community Importance Site Integrity plan" means the document certified as the in principle Hornsea Three Southern North Sea Site of Community Importance Integrity plan by the Secretary of State for the purposes of this Order under article 35 (certification of plans and documents etc);"</i></p>
Article 2 - Interpretation		Examining Authority	The definition of ‘pontoon gravity base 1 foundation’ in Article 2 includes the	“pontoon gravity base 1 foundation” means a structure principally of

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			words 'and either'. These words seem unnecessary and inconsistent with the subsequent definition of 'pontoon gravity base 2 foundation'.	steel, concrete, or steel and concrete with a base made up of up to three rectangular pontoons which rests on the seabed and either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;
Article 2 - Interpretation		Examining Authority	Table 3.57 of the ES [APP-058] refers to 440 joint bays. These do not appear to be referred to in Part 1 of Schedule 1. Please review whether joint boxes ought to be included in Part 1	<i>“joint bay” means an underground concrete pit where sections of cable are jointed together;</i>
Article 2 - Interpretation		Examining Authority	The definition of 'onshore site preparation works' in Article 2 includes site clearance, demolition and archaeological investigations. It is noted that similar drafting has been adopted in some other projects. Nevertheless, these may well be substantial works in their own right, particularly in relation to the clearance of vegetation along the cable corridor. Vegetation clearance could take place in areas which have yet to be subject to ecological surveys. A) What is the justification for excluding site clearance and demolition from the definition of	“onshore site preparation works” means operations consisting of site clearance, demolition work, pre-planting of landscaping works, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, creation of site accesses and the temporary display of site notices or advertisements;

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			'commence' in the particular circumstances of this application?	
Article 2 - Interpretation		Examining Authority	The definition of 'pontoon gravity base 1 foundation' in Article 2 includes the words 'and either'. These words seem unnecessary and inconsistent with the subsequent definition of 'pontoon gravity base 2 foundation'.	"pontoon gravity base 1 foundation" means a structure principally of steel, concrete, or steel and concrete with a base made up of up to three rectangular pontoons which rests on the seabed and either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;
Article 2 - Interpretation		Natural England	We note that the DMLs and the DCO should not include any direct reference to Natural England, rather the official text should state 'relevant SNCBs' throughout the schedules.	"SNCB" means an organisation charged by government with advising on nature conservation matters; Amendment made as requested throughout.
Article 2 - Interpretation		Natural England	Requirement 5 refers to 'cable systems'. Part 1 of Schedule 1 refers to 'cable circuits' which is a term defined in Article 2. Is the difference intentional and, if it is, why is different terminology used?	"transition joint bay" means the underground concrete bays in Work No. 7 where the offshore export cable systems circuits comprised in Work No. 6 are jointed to the onshore export cable systems circuits ;

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
PART 2 Principal Powers				
Article 5 - Benefit of the Order		Examining Authority	Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraphs (5), (7) and (9), shall include references to the transferee or lessee	(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraphs (5), (7) and (9), shall include references to the transferee or lessee.
Article 5(11)		Applicant	To correct drafting error.	(11) The date specified under paragraph (10)(a)(ii) <i>in respect of a notice served in respect of paragraph (3)</i> must not be earlier than the expiry of five days from the date of the receipt of the notice.
PART 5 Powers of Acquisition				
Article 18(1) - Time limit for exercise of authority to acquire land compulsorily		Applicant	Amendment to be in line with recent DCOs.	18.—(1) After the end of the period of 7 years beginning on the day on which this Order is made— (a) no notice to treat may is to be served under Part 1 of the 1965 Act; and (b) no declaration is to may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981() as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
Article 19(3) - Compulsory acquisition of rights		Applicant	To correct drafting error.	19 ... (3) Subject to section 8 of the 1965 Act (provisions as to divided land) as substituted by paragraph 5 of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights), and Schedule 2A (counter-notice requiring purchase of land) (as substituted by paragraph 5 9 of Schedule 7 (modification of compensation and compulsory purchase enactments for <i>the</i> creation of new rights) <i>and imposition of new restrictions</i>), where the undertaker <i>creates or</i> acquires a right over land or imposes a restriction under paragraph (1) or (2), the undertaker is not to be required to acquire a greater
Article 20(1) (Private Rights)		Applicant	To correct drafting error.	20.—(1) Subject to the provisions of this article, all private rights <i>or restrictive covenants</i> over land subject to compulsory acquisition under article 17 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 17 (compulsory acquisition of

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				land)— ...
Article 20(2)		Applicant	To correct drafting error.	(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or restrictive covenants ...
Article 20(3)		Applicant	To correct drafting error.	(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable,...
Article 20(4)		Applicant	To correct drafting error.	(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenants under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.
Article 21(2) - Application of the Compulsory Purchase (vesting Declarations) Act 1981		Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	21... (2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied by paragraph (1) , has effect with the following modifications.

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
N/A	Article 21(3)	Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	(3) In section 1 (application of act), for subsection 2 substitute— “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.
Article 21(3)	Article 21(4)	Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	(3) In Section 5(2) (earliest date for execution of declaration), is omitted the words from “, and this subsection” to the end.
Article 21(5)	Article 25(6)	Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	(5) In section 5B (extension of time limit during challenge)— (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order) , the three year period mentioned in section 5A” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent), ”; and for “the three year period mentioned in section 5A” substitute “the five year period mentioned in article 21 (time limit for exercise of authority to acquire land compulsorily) of the Hornsea Three Offshore Wind Farm Order 201[]”.

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
N/A	Article 25(7)	Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	<i>(7) In section 6 (notices after execution of declaration), in subsection (1)(b) for "section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981" substitute "section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008".</i>
Article 21(6)	Article 21(8)	Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	<i>(8) In section 7 (constructive notice to treat), in subsection (1)(a), omit the words "(as modified by section 4 of the Acquisition of Land Act 1981)" are omitted.</i>
Article 21(7)	Article 21(9)	Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	<i>(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), omit for paragraph 1(2) substitute— "But see article 25(3) (acquisition of subsoil only) of the Hornsea Three Offshore Wind Farm Order 201[], which excludes the acquisition of subsoil only from this Schedule."</i>
Article 21(8)	Article 21(10)	Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	<i>(10) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 must be construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by</i>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				article 26 (application modification of Part 1 of the Compulsory Purchase Act 1965) to the compulsory acquisition of land under this Order.
Article 22(3) - Acquisition of subsoil only		Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	22 ... (3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act; (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.
Article 22(4)		Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	(3)(4) Paragraphs (2) and (3) does not prevent Schedule 2A to the 1965 Act (as modified by article 26 (application of part 1 of the Compulsory Purchase Act 1965) are to be disregarded from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
Article 23(2) - Application of Part 1 of the Compulsory Purchase Act 1965		Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	(2) In section 4A(1) (extension of time limit during challenge)— (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order) , the three year period mentioned in section 4 ” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent), ”; and (b) for “the three year period specified in section 4” substitute “the seven year period mentioned in article 18 (time limit for exercise of authority to acquire land compulsorily) of the Hornsea Three Offshore Wind Farm Order 201[]”.
Article 23(3)		Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	(3) In section 11A (powers of entry: further notice of entry)— (a) in subsection (1)(a), after “land” insert “under that provision”; (b) in subsection (2), after “land” insert “under that provision”.
Article 23(4)		Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 21 (time limit for

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				exercise of authority to acquire land compulsorily) of the Hornsea Three Offshore Wind Farm Order 201[]”.
Article 23(5)		Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	<p>(3) (5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—</p> <p>(a) omit for paragraphs 1(2) and 14(2) substitute—</p> <p>“(2) But see article 25(3) (acquisition of subsoil only) of the Hornsea Three Offshore Wind Farm Order 201[], which excludes the acquisition of subsoil only from this Schedule; and</p> <p>(b) at the end insert—</p> <p>“PART 4 INTERPRETATION 30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 15 (protective work to buildings), article 25 (temporary use of land for carrying out the authorised development) or article 26 (temporary use of land for maintaining the authorised development) of the Hornsea Three Wind Farm Order 201[].”</p>
N/A	Article 25(1)(f) - Temporary use of land for carrying out the authorised project	Applicant	Included to make it clear that the Applicant can use the temporary use	construction works on that land as are mentioned in Part 1 of

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			powers to carry out construction works for the authorised development.	Schedule 1 (authorised development) and
Article 25(4)(d)		Applicant	Referencing amendment.	restore the land on which any works have been carried out under paragraph (1)(g) (1)(f) insofar ..
PART 7 Miscellaneous and General				
Article 33 - Felling or lopping of trees and removal of hedgerows		Examining Authority	Articles 33 and 34 would permit the removal or lopping of trees and hedgerows which may be of landscape and ecological significance. Would it be appropriate to include a requirement to the effect that any works permitted under this article should not take place until relevant ecological surveys have been carried out and that any such works should be carried out in accordance with BS3998 2010 and BS5837 2012?	The undertaker may fell or lop any tree within or overhanging land within the Order limits that is not subject to a tree preservation order or shrub near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with onshore site preparation works , the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.
Article 34 - Trees subject to tree preservation orders		Examining Authority	Articles 33 and 34 would permit the removal or lopping of trees and hedgerows which may be of landscape and ecological significance. Would it be appropriate to include a requirement to the effect that any	The undertaker may fell or lop any tree within or overhanging land within the Order limits subject to a tree preservation order which was made before and after [] or cut back its roots, if it reasonably believes it to be necessary to do so in order to prevent the tree from

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			works permitted under this article should not take place until relevant ecological surveys have been carried out and that any such works should be carried out in accordance with BS3998 2010 and BS5837 2012?	obstructing or interfering with <i>onshore site preparation works</i> , the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.
Article 35. (1) - Certification of plans and documents, etc.		Natural England	The DMLs have proposed the inclusion of a mitigation condition for harbour porpoise in the Southern North Sea cSAC/SCI similar to that included in Hornsea Project Two. Natural England notes that a Marine Mammal Mitigation Protocol will be provided to remove the risk of potential death and/or injury to marine mammals. In addition, the Project should have a Site Integrity Plan – a live document, which needs to be updated prior to construction to inform the relevant authority’s Appropriate Assessment of disturbance to harbour porpoise.	(t) the outline written scheme of investigation; and (u) the outline fisheries coexistence and liaison plan; and (v) <i>(v) the in principle Hornsea Three Southern North Sea Site of Community Importance Integrity plan.</i>
Article 42. (1) - Funding		Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	42.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place either— (a) a guarantee and the amount of that guarantee approved by the Secretary of State in

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or (b) an alternative form of security and the amount of that security for that purpose approved by the Secretary of State <i>in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land.</i>
SCHEDULE 1 — Authorised project				
PART 1 - Authorised Development				
Work No.8		Applicant	To correct drafting error.	(c) up to 44 33 0 link boxes; <i>and (d) up to 440 joint bays;</i>
PART 3 — Requirements				
Requirement 2 - Detailed offshore design parameters		Examining Authority	The drafting of Requirement 2 assumes a scheme of either up to 160 wind turbine generators (WTG) or precisely 300 WTG. Does this drafting cover the range of possible combinations of WTG	<i>2.—(1) The total number of wind turbine generators comprised in the authorised project must not exceed 300 and a total rotor swept area of 9km². (2) Subject to paragraph (3), each wind turbine generator forming part of the authorised project</i>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			numbers, types and layouts that is contemplated in the application?	<p>must not— (a) exceed a height of 325 metres when measured from LAT to the tip of the vertical blade; (b) exceed a rotor diameter of 265 metres; (c) be less than 34.97 metres from LAT to the lowest point of the rotating blade; and (d) be less than one kilometre from the nearest wind turbine generator in all directions. (3)The reference in sub-paragraph (2)(d) to the location of a wind turbine generator is a reference to the centre point of that wind turbine generator Subject to paragraph (2), wind turbine generators forming part of the authorised project must not— (2) 2.—(1) Subject to paragraph (2), wind turbine generators forming part of the authorised project must not— (a) in the event that the total number of wind turbine generators constructed is 160 or fewer— (i) exceed a height of 325 metres when measured from LAT to the tip of the vertical blade; and (ii) exceed a rotor diameter of 265 metres. (b) in the event that the total</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p>number of wind turbine generators constructed is 300— (i) exceed a height of 250 metres when measured from LAT to the tip of the vertical blade; and (ii) exceed a rotor diameter of 195 metres. (c) be less than one kilometre from the nearest wind turbine generator in all directions; and (d) be less than 34.97 metres from LAT to the lowest point of the rotating blade. (2) References to the location of a wind turbine generator are reference to the centre point of that wind turbine generator.</p>
<p>Requirement 3(12) - Detailed offshore design parameters</p>		<p>Applicant</p>	<p>To correct error in drafting. Requirement 3(12) (Schedule 1, Part 3) (Page 35) Requirement is replicated in Condition 2(8) of the Deemed Marine Licence – Transmission Assets (Schedule 12). As Requirement 3(12) and Condition 2(8) of the Deemed Marine Licence – Transmission Assets are imposing one and the same limitation - for consistency Requirement 3(12) could include 'electrical' before 'installation'. This addition then also then makes it clear that it doesn't include turbines and accommodation platform foundations. This potential modification to the</p>	<p>(12) The total seabed footprint area for offshore electrical installation foundations must not exceed—(a) 138,900 square metres excluding scour protection; and(b) 267,900 square metres including scour protection.</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			wording of the Draft DCO can be considered as part of the examination process.	
Requirement 5 - Detailed offshore design parameters		Examining Authority	Requirement 5 refers to 'cable systems'. Part 1 of Schedule 1 refers to 'cable circuits' which is a term defined in Article 2. Is the difference intentional and, if it is, why is different terminology used?	The number of cable systems circuits shall not exceed six.
Requirement 7(1) - Detailed design approval onshore		Examining Authority	Would 'relating to that work' provide greater certainty than 'relating to that element'?	relating to that element work of the authorised project have been submitted to and approved in writing by the relevant planning authority.
Requirement 10 - Ecological Management Plan		Environment Agency	Environment Agency Comment: "3.1 We note that in the Outline Ecological Management Plan– PINS Document Reference: A8.6 at 5.3.4.4 the applicant states that 'Methodologies will be preapproved by the Environment Agency.....where applicable, so as to help minimise the likely impacts on the wetland habitats' 3.2 However, we note that within the Draft Development Consent Order including Draft Deemed Marine Licenses – PINS Document Reference: A3.1 Part 3, Schedule 1,	No phase of the connection works may commence until for that phase a written ecological management plan (which accords with the outline ecological management plan) reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement has been submitted to and approved by the relevant planning authority in consultation with Natural England the relevant SNCBs and (where works have the potential to impact wetland habitats) the Environment Agency.

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>'Requirements', there is no Requirement to ensure that the Environment Agency pre-approves the methodologies as referenced in paragraph 3.1 above. We consider that the undertaking in the Outline Ecological Management Plan for pre-approval of methodologies should be reflected in a Requirement.</p> <p>3.3 We request that the Development Consent Order includes a Requirement that the Environment Agency pre-approves methodologies, this is to protect wetland habitats as proposed in the Ecological Management Plan. "</p>	
<p>Requirement 10 - Ecological Management Plan</p>		<p>Examining Authority</p>	<p>How would relevant mitigation measures be secured, such as those in the Outline Code of Construction Practice [APP-179], given that the detailed versions of mitigation documents may not be approved until after the 'onshore site preparation works' have taken place?</p> <p>Articles 33 and 34 would permit the removal or lopping of trees and hedgerows which may be of landscape and ecological significance.</p> <p>Would it be appropriate to include a</p>	<p><i>(2) The onshore site preparation works may not commence until a written ecological management plan (which accords with the outline ecological management plan) for those works reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement has been submitted to and approved by the relevant planning authority in consultation with the relevant SNCBs; and</i></p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			requirement to the effect that any works permitted under this article should not take place until relevant ecological surveys have been carried out and that any such works should be carried out in accordance with BS3998 2010 and BS5837 2012?	
Requirement 11 - Highway accesses		Examining Authority	Requirement 11 provides for details of accesses (including access management measures) to be approved although such approval would not be needed if there were no construction or modification of an existing access. Would this drafting adequately protect highway safety, for example if temporary traffic management were needed because construction traffic would be using an existing access with restricted visibility splays?	(2) The requirements in sub-paragraph (1) shall not apply to any proposed means of access to a highway which do not require any construction or modification works, and which are contained within the access to works plan. (3)(2) The highway accesses for each phase must be constructed in accordance with the approved details.
Requirement 15 - Surface water		Examining Authority	In the Applicant's drafting, should 'and onshore HVAC booster station' be added after the second reference to HVDC/HVAC substation in (1) and the reference to HVDC/HVAC substation in (2)?	(1) No part of the onshore HVDC/HVAC substation or onshore HVAC booster station shall commence until a detailed surface water scheme in accordance with the outline code of construction practice and based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the onshore HVDC/HVAC substation

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p>and onshore HVAC booster station has been submitted to and approved in writing by the relevant planning authority, in consultation with the Environment Agency the drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991. (2) Construction of the onshore HVDC/HVAC substation or HVAC booster station must be carried out in accordance with the approved scheme.</p>
<p>Requirement 16 - Onshore Archaeology</p>		<p>Examining Authority</p>	<p>How would Requirement 16, relating to archaeological investigations, operate if those investigations were themselves excluded from the definition of commencement?</p>	<p>(2) The term commence as used in requirement 16(1) only shall include any onshore site preparation works.</p>
<p>Requirement 17 - Code of Construction Practice</p>		<p>Environment Agency</p>	<p>Environment Agency Comment: 2.5 However, we note that within the Draft Development Consent Order including Draft Deemed Marine Licences – PINS Document Reference: A3.1 Part 3, Schedule 1, 'Requirements', Code of Construction Practice paragraph 17 (page 38); that there is no requirement for the Environment Agency to be consulted or approve detailed CoCPs. 2.7 We consider that in order to</p>	<p>No phase of the any works landward of MLWS may commence until for that phase a code of construction practice (which must accord with the outline code of construction practice) has been submitted to and approved by the relevant planning authority, in consultation with the Environment Agency, the relevant highway authority and, if applicable, the MMO.</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>safeguard areas within our remit that it is necessary for our prior approval of the detailed CoCP and site specific Pollution Control Plans</p> <p>2.8 We request that Requirement 17 includes a requirement that for each phase a CoCP and associated pollution control plans are submitted to and approved by the Environment Agency prior to works on that phase commencing.</p>	
Requirement 17 - Code of Construction Practice		Examining Authority	Should the requirement include a clause to the effect that the works should be carried out in accordance with the approved codes of construction practice?	<p>17 (1)...</p> <p>(2) The code of construction practice for each phase must include—</p> <p>(a) communication plan framework;</p> <p>(b) outline method statement for crossing techniques;</p> <p>(c) bentonite breakout plan; and</p> <p>(d) biosecurity protocol.</p> <p>(3) All construction works for each phase must be undertaken in accordance with the relevant approved code.</p>
Requirement 18(2) - Construction traffic management plan		Examining Authority	B) Should the requirement include a clause to the effect that the works should be carried out in accordance with the approved construction traffic management plans?	<p>The construction traffic management plan for each phase must be implemented as approved for that phase.</p> <p>construction traffic management plan must contain details of—</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			C) The list of items in 18(2) appears to be more limited in scope that the Outline Construction Traffic Management Plan [APP-176] would suggest. Given that 18(1) requires accordance with the Outline Construction Traffic Management Plan in any event, is 18(2) necessary?	(2) proposed vehicle routeing plans; (3) any abnormal indivisible loads that may be delivered by road, or confirmation that no abnormal indivisible loads will be required for construction of the authorised development; (4) condition surveys; (5) any highway works proposed; and (6) construction personnel travel.
SCHEDULE 4 — Public rights of way to be temporarily stopped up				
		Applicant	To correct drafting error.	Bridleway Little Bamingham BR16

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
SCHEDULE 7 — Modification of compensation and compulsory purchase enactments for creation of new rights				
Paragraph 2(1)		Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	2.—(1) Without prejudice to the generality limitation on the scope of paragraph 1, the Land Compensation Act 1973() has effect subject to the modifications set out in sub-paragraph (2).
Paragraph 2(2)		Examining Authority	In paragraph 2(2)(a) should the phrase to be substituted be 'land is acquired or taken from'?	(a) for the words "land is acquired or taken from " there is substituted the words "a right or restrictive covenant over land is purchased from or imposed on"; and
Paragraph 3		Examining Authority	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	3....(2) For section 5A (5A) (relevant valuation date) of the 1961 Act, for (a) and (b) substitute—" if- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 7 of Schedule 7 to the Hornsea Three Offshore Wind Farm Order 201[] ;

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p>and(b) the acquiring authority is subsequently required by a determination under paragraph 12³ of Schedule 2A to the 1965 Act (as substituted by paragraph 109⁹ of Schedule 78⁸ to the Hornsea Three Offshore Wind Farm Order 201[X]) to acquire an interest in the land, and (c) <i>the acquiring authority enters on and takes possession of that land, the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.</i>"</p>
N/A	<p>Paragraph 4 - Application of Part 1 of the 1965 Act</p>	<p>Applicant</p>	<p>To make this text in line with recent DCOs granted such as the Eggborough Gas Fired Generating Station Order 2018.</p>	<p><i>Application of Part 1 of the 1965 Act</i> 4.— (1)The 1965 Act is to have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p><i>including references to— (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or (b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable. (2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.</i></p>
<p>Paragraph 4 - Application of Part 1 of the 1965 Act</p>	<p>Paragraph 5 - Application of Part 1 of the 1965 Act</p>	<p>Applicant</p>	<p>Renumbering change</p>	<p>4 5. For section 7 of the 1965 Act (measure of compensation <i>in case of severance</i>) there is substituted the following section— ...</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
Paragraph 5	Paragraph 6	Examining Authority	<p>In paragraph 5 should the eighth line read 'are so modified as to secure...'? In relation to the 1965 Act, would it be appropriate to include wording to the effect that: References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to— (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.</p>	<p>5-6 The following provisions... are is so modified..</p>
Paragraph 6	Paragraph 7	Applicant	<p>Modified in relation to changes to legislation made by Housing and Planning Act 2016.</p>	<p>6-7 Section 11 of the 1965 Act (powers of entry) is modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right <i>or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 19)</i>, it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				purpose to have been created on that date of service of the notice); and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on specified date) , 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.
Paragraph 7	Paragraph 8	Applicant	Renumbering change	7-8 Section 20 of the 1965 Act...
Paragraph 8	Paragraph 9	Applicant	Modified to align with recent DCOs granted.	8-9 Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) as modified by article 22(4) is also modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed , subject to compliance with that section as respects compensation.
Paragraph 9	Paragraph 10	Applicant	Modified to align with Secretary of State's preferred wording as set out in recently made DCOs.	9-10 For schedule 2A to the 1965 Act substitute— (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p>restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 19 21 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) <i>of the Hornsea Three Offshore Wind Farm Order 201[]</i> in respect of the land to which the notice to treat relates.</p> <p><i>(2) But see article 22(3) (acquisition of subsoil only) of the Hornsea Three Offshore Wind Farm Order 201[] which excludes the acquisition of subsoil only from this Schedule.</i></p>
SCHEDULE 9 — Protective provisions				
Part 1 - Protection for electricity, gas, water and sewerage undertakers		Applicant	Correct drafting error.	<i>Retained apparatus</i> 7.—(1) Not less than 28 days before ...
Part 6, Paragraph 3 - For the protection of		Anglian Water	Amendment requested by Anglian Water.	This Part of this Schedule does not apply to apparatus in respect of which <i>to the extent that</i> the relations between the undertaker

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
Anglian Water Services Limited				and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.
N/A	Part 7 - For the protection of Norfolk Vanguard and Boreas	Vattenfall/Applicant	Protective provisions in near agreed format.	See draft DCO.
SCHEDULE 11 — Deemed Marine Licence under 2009 Act - Generation Assets				
PART 1 — Licensed Marine Activities				
Article 1 - Interpretation		MMO and Natural England	<p>MMO comment:</p> <p>“The interpretation of ‘commence’ for both the DCO and DMLs excludes offshore site preparation works. The definition for ‘Offshore Site Preparation Works’ specifically includes surveys and monitoring but also sandwave levelling and boulder clearance. Such a definition also has the potential to include Unexploded Ordinance (UXO) clearance and other works. The MMO considers that offshore preparation works should be included in the interpretation of ‘commence’.”</p>	<p>“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for operations consisting of offshore site preparation works, pre-construction monitoring surveys approved under this licence and “commenced” and “commencement” must be construed accordingly;</p> <p>...</p> <p>“offshore site preparation works” means any activities within the Order limits seaward of MHWS undertaken prior to the commencement of construction to</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>Natural England comment:</p> <p>“Additional to the concerns on arbitration, Natural England cannot agree to the definition of ‘offshore preparation works’ as currently provided within the draft DCO and DMLs. The definition allows works such as sandwave levelling and boulder clearance to be conducted without any regulatory oversight or control of the methodology. These works form a significant part of the impact of the project, including a significant part of the impact to designated sites, and must be subject to appropriate regulatory review and sign off prior to any works commencing.”</p>	<p>prepare for construction, including but not limited to surveys, monitoring, boulder clearance and sandwave clearance;</p>
Article 1 - Interpretation		Applicant	Due to amendments to conditions - see below.	<p>“European offshore marine site” has the meaning given in regulation 18 of the 2017 Regulations;</p>
Article 1 - Interpretation		Applicant	Due to amendments to conditions - see below.	<p><i>“in principle Hornsea Three Southern North Sea Site of Community Importance Site Integrity Plan” means the document certified as the in principle Hornsea Three Southern North Sea Site of Community Importance Site Integrity Plan by the Secretary of</i></p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<i>State for the purposes of this Order;</i>
Article 1(4)(a)		MMO	The correct contact details for the Marine Management Organisation are as follows: Marine Management Organisation, Marine Licensing Team, Lancaster House Hampshire Court, Newcastle Business Park, Newcastle upon Tyne, NE4 7YH Tel: 0300 123 1032	Offshore Marine Licensing Team Lancaster House Hampshire Court Newcastle Business Park Newcastle upon Tyne NE4 7YH Tel: 0300 123 1032;
Article 2 - Details of licensed marine activities		Examining Authority	Paragraph 5.5.1.2 of the Report to Inform Appropriate Assessment [APP-051] states that material from sandwaves cleared within The Wash and North Norfolk Coast SAC would be deposited within the site boundary. How has this mitigation been secured in the dDCO and/or DMLs?	(a) the deposit at sea <i>within the Order limits seaward of MHWS</i> of the substances and articles specified in paragraph 4 below <i>and up to 1,344,318 cubic metres of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works within Work No. 1;</i> (b) the construction of works in or over the sea and/or on or under the sea bed; (c) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works; the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p>construction, construction and operation;</p> <p>(d) boulder clearance works either by displacement ploughing or subsea grab technique or any other equivalent method;</p> <p>(e) removal of static fishing equipment;</p> <p>(e) the disposal within the Order limits seaward of MHWS of up to 1,344,318 cubic metres of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works within Work No. 4; and</p> <p>(g)(f) site preparation works.</p>
Article 3 - Details of licenced marine activities		Applicant	To correct drafting error.	<p>devices;. <i>and</i></p> <p><i>(c) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development.</i></p>
Article 6 - Details of licenced marine activities	Deleted.	MMO and Natural England	As above	<p>6. Any offshore site preparation works undertaken shall not be considered to have commenced the licenced activities for the purposes of any condition of this licence that requires any discharge prior to such commencement.</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
Article 8 - Details of licenced marine activities	Article 7		To correct drafting error.	8. The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section s 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).
Article 10 - Details of licenced marine activities	Article 9	Applicant	To correct drafting error.	Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority MMO or that other person that the subject matter of the agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.
PART 2 — Conditions				
Condition 1 - Design parameters		Examining Authority	The drafting of Condition 1 assumes a scheme of either up to 160 WTG or precisely 300 WTG. Does this drafting cover the range of possible combinations of WTG numbers, types and layouts that is contemplated in the application?	1.—(1) The total number of wind turbine generators comprised in the authorised project must not exceed 300 and a total rotor swept area of 9km².(2) Subject to paragraph (3), each wind turbine generator forming part of the

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p><i>authorised project must not—(a) exceed a height of 325 metres when measured from LAT to the tip of the vertical blade; (b) exceed a rotor diameter of 265 metres;(c) be less than 34.97 metres from LAT to the lowest point of the rotating blade; and(d) be less than one kilometre from the nearest wind turbine generator in all directions.(3)The reference in sub-paragraph (2)(d) to the location of a wind turbine generator is a reference to the centre point of that wind turbine generator</i></p> <p>Subject to paragraph (2), wind turbine generators forming part of the authorised project must not—(2) 2.—(1) Subject to paragraph (2), wind turbine generators forming part of the authorised project must not—(a) in the event that the total number of wind turbine generators constructed is 160 or fewer—(i) exceed a height of 325 metres when measured from LAT to the tip of the vertical blade; and(ii) exceed a rotor diameter of 265 metres.(b) in the event that the total number of wind turbine generators constructed is 300—(i) exceed a</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p>height of 250 metres when measured from LAT to the tip of the vertical blade; and(ii) exceed a rotor diameter of 195 metres.(c) be less than one kilometre from the nearest wind turbine generator in all directions; and(d) be less than 34.97 metres from LAT to the lowest point of the rotating blade.(2) References to the location of a wind turbine generator are reference to the centre point of that wind turbine generator.</p>
<p>Condition 3(1) - Design Parameters</p>		<p>MMO</p>	<p>The DCO proposes 2,201,000m3 volume of cable protection excluding cable crossings. The maximum volume of protection for cable crossings proposed is 784,875m3. The total volume of cable protection in the draft DCO is 2,985,875m3. Cable protection proposed in the ES project description however states the following:</p> <ul style="list-style-type: none"> • Export cable: 1,146,000m3 (Table 3.46, page 37) • Cable crossing: 1,146,000m3 (Table 3.48, page 38) • Array cables: 830,000m3 (Table 3.33, page 29) • Interconnectors: 225,000m3 (Table 3.50, page 38). <p>The total volume of cable protection</p>	<p>3—(1) The total length of the cables in Work No.1(c) and the volume of their cable protection (excluding cable crossings) when combined with the cable authorised under Work No.2(c) of the deemed marine licence granted under Schedule 12 of the Order must not exceed the following—</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>proposed in the ES project description is therefore 3,347,000m³, which is significantly higher than that stated in the DCO.</p> <p>Schedule 11 defines the volume of cable protection as 1,055,000m³ whereas Schedule 12 defines a total volume of 1,371,000m³. Added together, the DMLs propose a total volume of 2,426,000m³. Neither of the draft DMLs give any indication as to whether the total volumes include cable protection for cable crossings. The footprint of cable protection (excluding cable crossings) proposed in the DCO identifies a maximum footprint of 1,540,700m² in addition to the maximum footprint for cable crossings of 747,500m². Calculated together the DCO proposes a maximum footprint for cable protection of 2,288,299m². The cable protection footprint proposed in the ES project description is as follows:</p> <ul style="list-style-type: none"> • Export cable: 802,200m² (Table 3.46, page 37) • Cable crossing: 802,200m² (Table 3.48, page 38) • Array cables: 581,000m² (Table 3.33, page 29) • Interconnectors: 157,500m² (Table 3.50, page 38) 	

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			The total volume of cable protection proposed in the ES project description therefore amounts to 2,342,900m ² , which is significantly higher than that proposed in the DCO. The MMO requests further clarification of the cable protection footprint and volume and for corrections to be made to the DCO, DMLs and ES accordingly.	
N/A	Condition 4 - Phases of authorised development	Applicant	New conditions- added to clarify phasing requirements.	<i>4.—(1) The authorised development may not be commenced until a written scheme setting out the phases of construction of the authorised project has been submitted to and approved by the MMO. (2) The scheme must be implemented as approved.</i>
Condition 4 - Maintenance of the authorised development	Condition 5	MMO	The MMO would like to highlight that the clearing of J-Tubes has not been included in the array DML, but is mentioned in the transmission DML. The MMO is aware of cases where the cleaning of J-Tubes has been required for generation assets. The MMO suggests that J-Tube clearing and maintenance should be included in Schedule 11 for generation assets if this is likely to be required.	... (e) array cable repairs; (f) access ladder replacement; and (g) wind turbine generator anode replacement; <i>and</i> (h) <i>J-tube repair/replacement.</i>
N/A	Condition 6 - Extension of time periods	MMO	Both DMLs set out the requirement for all pre-construction documentation and	<i>6. Any time period given in this licence given to either the</i>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			plans under Condition 11 or 12 to be submitted for approval 4 months prior to the commencement of any licenced activity. Considering the increased size and complexity of the Round 3 offshore wind farm projects and the increasing number of issues encountered on previous offshore wind farm projects throughout the pre-construction approval process, the MMO consider that a timeframe of 6 months would be more appropriate to address such issues through consultation prior to their approval.	<i>undertaker or the MMO may be extended with the agreement of the other party.</i>
Condition 5(6) - Notifications and Inspections	Condition 7	MMO	The MMO recommends that notification to the MMO Coastal Office should be included, to ensure that the MMO's local office are aware of completion of activities. Notification should take place within 5 days of the completion of the licenced activity. Please see recommended condition wording below and should also be applied to Schedule 12: The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within 5 days of the completion of the licenced activity.	"(6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them <i>and within five days of the completion of the licenced activity.</i> "

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
<p>Condition 5(7) - Notifications and Inspections</p>	<p>Condition 7</p>	<p>Applicant</p>	<p>The Applicant has been advised that this is a standard condition for Trinity House.</p>	<p>(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details regarding the vessel routes, timings and locations relating to the construction of the authorised project or relevant part— (a) at least ten fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and (b) on completion of construction of all offshore activities. Confirmation of notification must be provided to the MMO within five days.</p>
<p>Condition 11(1)(a)(i) and (v) - Pre-Construction plans and documentation</p>	<p>Condition 13(1)(a)(i) and (v) - Pre-Construction plans and documentation</p>	<p>Examining Authority</p>	<p>Condition 11(1)(a)(v) provides for the indicative layout of the WTGs to be approved.</p> <p>A) Why would the layout only be indicative?</p> <p>B) At what stage (if any) would the MMO approve the actual layout?</p>	<p>(a) A design 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, including grid co-ordinates 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</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p><i>difficult ground conditions</i> and choice of foundation types for all wind turbine generators and offshore accommodation platforms; (ii) the number, specifications and dimensions of the wind turbine generators in that phase; (iii) the length and arrangement of cable comprising Work No. 1(c); (iv) the dimensions of all monopile foundations, mono suction bucket foundations, jacket foundations or gravity base foundations; (v) a plan showing the indicative layout of all wind turbine generators and offshore accommodation platforms including all exclusion zones; and</p>
<p>Condition 11(1)(a)(vi) - Pre-Construction plans and documentation</p>	<p>Condition 13(1)(a)(v) - Pre-construction plans and documentation</p>	<p>MMO and Natural England</p>	<p>MMO's comment: "The requirement for a design plan to be approved by the MMO has been removed from the DMLs since this information has been included in the ES. The MMO suggests that the design plan should be approved post-consent to allow for consideration as to whether the final project plan sits within the consented envelope. Please see paragraph 1.35 for further detail." Natural England's comments: "Natural England does not agree with the proposed approach of removing the condition for submitting a design plan to the MMO if it 'is within</p>	<p>(vi) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph 13(2)(d) 11(2)(d) <i>or relating to any Annex 1 reefs identified as part of surveys undertaken in accordance with condition 17</i>; to ensure conformity with the description of Work No. 1 and compliance with conditions 1 to (2) above save that where the proposed <i>layout prescribed in the design plan</i> design provided under this condition is in accordance with the development principles set out</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>the scope of the ES'. Given the number of times Natural England and the MMO have had a different opinion to that of the developer on what is within an approved project envelope, removing such a condition would be inappropriate, in our view. There is a potential risk of the envelope not being checked as no response is required, and it will mean Natural England is not even consulted on the design plan." "The standard approach of all offshore wind farms is to conduct a preconstruction survey to ensure there are no habitats of ecological importance and where they are present every effort should be made to avoid impacting on them. The Generation DML also has no pre-construction or post construction monitoring requirement to identify any features of ecological importance. The DMLs do not include a requirement to micro-site around habitats of ecological importance outside of European designated sites (only reference to micro siting outside the sites relates to archaeological features). It is Natural England's view that the lack of micro-siting and monitoring requirements is not appropriate. We also question how the project intends to micro-site within a</p>	<p>volume 2, chapter 7, and volume 5, annex 7.1 to the environmental statement that the layout shall not require the consent of the MMO shall not be required.</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			European site if no pre-construction survey to identify ecological features is proposed under the Generation DML. The lack of surveys outside of designated sites could also lead to disposal activities occurring affecting ecologically important habitats."Given the detailed design principles agreed, the Applicant considers a compromise to be appropriate that where the layout of the turbine array is agreed, this does not require MMO consent.	
Condition 11(1)(d)	Condition 13(1)(d)	Applicant	Drafting error	(d) a project environmental management plan and monitoring plan covering the period of construction and operation to include details of—
Condition 11(1)(h)	Condition 13(1)(h)	Examining Authority	The ES [APP-067] discusses the vessel to subsea structure allision risk resulting from presence of subsea high voltage alternating current (HVAC) booster stations and cable protection. Section 18.4 of the Navigational Risk Assessment [APP-112] identifies a key area of risk approximately 5nm north of the landfall location, together with specific cable/pipeline crossings which may be of concern. Please provide further information about the existing depths of water, the likely reductions in depth due to subsea works and the range of	(ii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA) to be taken to ensure existing and future safe navigation is not

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>draughts of vessels typically navigating through these areas of risk/concern.</p> <p>The ES refers to potential further mitigation being required should subsea offshore HVAC booster stations be utilised. Please give examples of what such further mitigation might be.</p>	<p>compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and</p>
N/A	Conditions 13(1)(k) and 13(1)(l)	Applicant	See conditions 18-20 below.	<p>(k) a plan for marine mammal monitoring setting out the circumstances in which marine mammal monitoring will be required and the monitoring to be carried out in such circumstances.</p> <p>(l) an ornithological monitoring plan setting out the circumstances in which ornithological monitoring will be required and the monitoring to be carried out in such circumstances.</p>
Condition 11(2)	Condition 13(2)	Examining Authority	<p>Condition 11(2) provides for a written scheme of archaeological investigation to be submitted.</p> <p>A) Does the drafting make clear that this scheme would be subject to the approval of the MMO?</p>	<p>The licensed activities or any part of those activities must not commence unless no later than six months prior to the commencement a written scheme of archaeological investigation has been submitted to and approved by the MMO, in accordance with the outline written scheme of investigation, and in</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				accordance with industry good practice, in consultation with the statutory historic body to include- ... (e) monitoring of archaeological exclusion zones during and post construction, including provision of a report on such monitoring;
N/A	Condition 13(3)	MMO	The MMO recommends inclusion of the following condition to ensure that no known or unknown archaeological artefacts are at risk from the proposed investigation works; Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific Written Scheme of Investigation which is itself in accordance with the details set out in the outline offshore Written Scheme of Investigation, and which has been submitted to and approved by the MMO	(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the outline offshore written scheme of investigation) which has been submitted to and approved by the MMO.
N/A	Conditions 13(5)	Natural England	The DMLs have proposed the inclusion of a mitigation condition for harbour porpoise in the Southern North Sea cSAC/SCI similar to that included in Hornsea Project Two. Natural England notes that a Marine Mammal Mitigation Protocol will be provided to remove the risk of potential	5) In the event that driven or part-driven pile foundations are proposed to be used, the licenced activities, or any phase of those activities must not commence until a Site Integrity Plan which accords with the principles set out in the in

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>death and/or injury to marine mammals. In addition, the Project should have a Site Integrity Plan – a live document, which needs to be updated prior to construction to inform the relevant authority’s Appropriate Assessment of disturbance to harbour porpoise</p>	<p><i>principle Hornsea Three Southern North Sea Site of Community Importance Site Integrity Plan has been submitted to the MMO and the MMO is satisfied that where the plan concludes that mitigation is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of the Southern North Sea candidate Special Area of Conservation, it provides for such mitigation, to the extent that harbour porpoise are a protected feature of that site.</i></p> <p>(4) In the event that driven or part-driven pile foundations are proposed to be used, the MMO must not approve the plan referred to in paragraph (1)(a) unless the MMO is satisfied, after consulting such persons as the Secretary of State may specify (in addition to the persons with whom consultation is otherwise required under this Condition), that the plans provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that marine</p>

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				<p>mammals are a protected feature of that site. (5) The mitigation referred to in paragraph (4) may include (without limitation)— (a) seasonal restrictions to piling; (b) scheduling of piling, having regard to previous, ongoing and future piling associated with other offshore developments, based on an updated assessment of cumulative impacts; (c) the use of alternative foundation methodologies, such as jacket foundations or gravity base foundations; (d) the use of noise reduction at source technologies; and (e) the use of other relevant technologies or methodologies that may emerge in the future. (6) In paragraph (4), “relevant site” means— (a) a European offshore marine site; or (b) a European site.</p> <p>Following definition added: <i>“In principle Hornsea Three Southern North Sea Site of Community Importance Site</i></p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p><i>Integrity Plan” means the document certified as the in principle Hornsea Three Southern North Sea Site of Community Importance Site Integrity Plan by the Secretary of State for the purposes of this Order;</i></p> <p>And following definition removed:</p> <p>“European offshore marine site” has the meaning given in regulation 18 of the 2017 Regulations;</p>
N/A	Condition 13(6)	Examining Authority	Paragraph 4.11.1.33 of the ES [APP-064] considers maximum hammer energy for piling operations. The MMO [RR-085] recommends that a condition is included to restrict the maximum hammer energy to the worst case scenario (5,000kJ), as assessed in the ES. However, that maximum relates to a WTG type which may not be used. There is an example (Dogger Bank Teesside A and B) of imposing limits relevant to the various foundation types under consideration.	<p><i>(6) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000kJ.</i></p>
Condition 12(1) - Pre-Construction plans and documentation	Condition 14(1)	MMO and Natural England	MMO’s comment: “The DML for the Generation Assets (Schedule 11) Condition 11 (2) (f) sets out the monitoring requirements for the pre-construction documentation. This	Each programme, statement, plan, protocol or scheme required to be approved under condition 13 ¹⁴ <i>(save for that required under condition 13(1)(f))</i> must be

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>condition is linked to the standard pre-construction timing requirement which states that all documentation is required to be submitted no less than 4 months prior to the commencement of the licenced activities. The MMO advises that pre-construction monitoring should have been undertaken well in advance of this date."Natural England's comment:"The generation DML Part 2 Condition 11 (2) (f) secures the monitoring requirements within pre-construction plans. However, this condition is linked to the standard pre-construction timing requirement of 4 months before commencement. Clearly this is inappropriate given monitoring will need to be conducted well in advance of this date."</p>	<p>submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.</p>
<p>Condition 12(2)</p>	<p>Condition 14(2)</p>	<p>MMO and Natural England</p>	<p>"The proposed timescales conditioned in the DMLs require a response period of 8 weeks following receipt of all post-consent documentation. The MMO considers that this would not provide sufficient time for consultation and subsequent comment, based on the experience of offshore wind farm licence management in the past. The MMO recommends that a minimum period of 6 months is applied for consideration of post-consent documentation submission to allow for</p>	<p>(2) The MMO shall determine any application for approval consent made under condition 13 this article within a period of four months eight weeks commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.</p>
<p>Condition 12(3)</p>	<p>Condition 14(3)</p>	<p>MMO and Natural England</p>	<p>documentation submission to allow for</p>	<p>(3) Where the MMO is minded to refuse an application for approval consent made under condition</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>sufficient stakeholder consultation and comment to be provided. The MMO also recommends removal of the requirement that any failure to provide a decision in time may lead for the matter to be referred to arbitration.”</p> <p>Natural England made similar comments.</p> <p>The Applicant considers that a four month period is an appropriate compromise.</p>	<p>1314 (<i>save that required under condition 13(1)(f)</i>) and notifies the undertaker accordingly, or the Secretary of State fails to determine the application for consent under this article within the period prescribed in paragraph (2), the undertaker may refer the matter for determination in accordance with article 36 (arbitration) of the Order.</p>
<p>Condition 15 - Pre-Construction Monitoring and surveys</p>	<p>Condition 17 - Pre-Construction Monitoring and surveys</p>	<p>MMO and Natural England</p>	<p>MMO Comment: "1.8. Neither of the DMLs include any requirement for micro-siting around features of ecological importance outside of any European Designated Site. In addition, no conditions for pre- or post-construction monitoring for features of ecological importance have been included in the Generation Assets DML (Schedule 11?). The MMO notes that it is a standard approach of all offshore wind developments to conduct pre- and post-construction surveys to ensure that there will be no impacts on features of ecological importance outside of any European Designated Site. The MMO suggests that the applicant provides details of pre- and post-construction monitoring surveys to inform micro-siting around</p>	<p>(1) The undertaker must in discharging condition 13(1)(f) submit a monitoring plan or plans in accordance with an in-principle monitoring plan for written approval by the MMO in consultation with the relevant statutory bodies, which shall contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report , and;(a) the survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with</p>

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			<p>any features of ecological importance prior to the commencement of any licenced works and to provide evidence post-construction as to the impact on any such features as a result of the development. Please see paragraph 1.47 and 1.67 for further detail." Natural England's comment:"A.5. The standard approach of all offshore wind farms is to conduct a preconstruction survey to ensure there are no habitats of ecological importance and where they are present every effort should be made to avoid impacting on them. The Generation DML also has no pre-construction or post construction monitoring requirement to identify any features of ecological importance. The DMLs do not include a requirement to micro-site around habitats of ecological importance outside of European designated sites (only reference to micro siting outside the sites relates to archaeological features). It is Natural England's view that the lack of micro-siting and monitoring requirements is not appropriate. We also question how the project intends to micro-site within a European site if no pre-construction survey to identify ecological features is proposed under the Generation DML.</p>	<p><i>the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the preconstruction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the pre-construction surveys must comprise, in outline—(a) a high-resolution swath bathymetric survey to include a 100% coverage and a side-scan sonar survey of the parts of the offshore Order limits within which it is proposed to carry out construction works and disposal activities under this licence, to determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the in-principle</i></p>

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			The lack of surveys outside of designated sites could also lead to disposal activities occurring affecting ecologically important habitats."	<i>monitoring plan;(b) any marine mammal monitoring required by the plan for marine mammal monitoring submitted in accordance with condition 13(1)(k);(c) any ornithological monitoring required by the Ornithological Monitoring Plans submitted in accordance with condition 13(1)(l); and(d) a full sea floor coverage swath-bathymetry survey within the Order limits to inform future navigation risk assessments as part of the cable specification and installation plan.(3) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.</i>
N/A	Condition 18 - Construction Monitoring	MMO	1.36. Part 2 (11) (1) (b) (page 135) - Pre-construction plans and documentation The MMO recommends that submission of a construction programme should also include a	<i>(1) The undertaker must in discharging condition 13(1)(f) submit a construction monitoring plan or plans for written approval by the MMO in consultation with the relevant statutory nature conservation body, which shall include details</i>

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			<p>construction monitoring plan in line with the principal monitoring plan. Proposed timings for mobilisation should include whether such works will be carried out as a single offshore phase or as multiple phases.</p> <p>Furthermore, the MMO recommends that the construction programme should include proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with the relevant monitoring conditions in the DML(s).</p>	<p><i>of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.</i></p> <p><i>(2) Subject to receipt from the undertaker of specific proposals pursuant to this condition, so far as applicable, the construction monitoring plan must include, in outline—</i></p> <p><i>(a) where piled foundations are to be employed, unless otherwise agreed by the MMO in writing, details of proposed monitoring of the noise generated by the installation of the first four monopile foundations to be constructed</i></p>

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				<p><i>under this licence;</i> <i>(b) a plan for monitoring of the duration of piling activity;</i> <i>(c) details of vessel traffic monitoring by automatic identification system for the duration of the construction period including obligations to report annually to the MMO and the MCA during the construction phase of the authorised development; and</i> <i>(d) vessel traffic monitoring by automatic identification system for the duration of the construction period, including annual reporting to the MMO and MCA;</i></p> <p><i>(3) The results of the initial noise measurements generated in accordance with condition 18(2)(a) must be provided to the MMO within 6 weeks of the completion of installation of the fourth foundation of each foundation type for the MMO to determine whether any further noise monitoring shall be required.</i></p> <p><i>(4) The undertaker must carry out the surveys specified within</i></p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<i>the construction monitoring plan or plans in accordance with that plan or plans, including any further noise monitoring required in writing by the MMO under condition 18(3), unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.</i>
N/A	Condition 19 - Post Construction Monitoring	MMO	1.68. Part 2 (16) (2) (c) (i) (page 155) – Monitoring and surveys It is unclear from this condition whether post construction monitoring will be undertaken. The MMO requests further clarification of the terms ‘representative proportion’ and ‘sensitive cable protection’.	<i>(1) The undertaker must in discharging condition 13(1)(f) submit a post-construction monitoring plan or plans for written approval by the MMO in consultation with the relevant statutory nature conservation body including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and</i>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p><i>valid comparison with the preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement. (2) Subject to receipt of specific proposals, so far as applicable, the post-construction survey plan or plans must include, in outline— (a) a survey to determine any change in the location, extent and composition of any biogenic or geogenic reef feature identified in the pre-construction survey in the parts of the offshore Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey; (b) any marine mammal monitoring required by the plan for marine mammal monitoring submitted in accordance with condition 13(1)(k); (c) any ornithological monitoring required by the Ornithological Monitoring Plans submitted in accordance with condition 13(1)(l); (d) details of vessel traffic monitoring by automatic identification system, for a period of 28 individual days</i></p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p><i>taking account seasonal variations in traffic patterns over the course of one year to be submitted to the MMO and the MCA no later than one year following completion of the construction phase of the authorised development; and(e) a full sea floor coverage swath-bathymetry survey of the areas within which construction activity has taken place in order to inform of any dropped objects or residual navigational risk. (3) The undertaker must carry out the surveys agreed under condition 19(1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.</i></p>
N/A	Condition 20 - Timing of Monitoring Report	Natural England	A.6. The generation DML Part 2 Condition 11 (2) (f) secures the monitoring requirements within pre-construction plans. However, this condition is linked to the standard pre-construction timing requirement of 4 months before commencement. Clearly this is inappropriate given	<p><i>20. Any monitoring report compiled in accordance with the monitoring plans provided under conditions 17, 18 and 19 must be provided to the MMO no later than four months following completion of the monitoring to which it relates.</i></p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			monitoring will need to be conducted well in advance of this date.	
N/A	Condition 21 - Updating of cable monitoring plan	MMO	<p>1.47. ...</p> <p>In addition, to allow for consistency in the cable monitoring plan, inclusion of the following condition is recommended for post-construction activities;</p> <p><i>Following installation of cables, the cable monitoring plan required under condition 11(1)(h)(iii) must be updated with the results of the post-installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.</i></p>	<i>Following installation of cables, the cable monitoring plan required under condition 13(1)(h)(iii) must be updated with the results of the post-installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO</i>
N/A	Condition 22 - Reporting of impact pile driving	MMO	<p>Under the UK Marine Strategy, all developers are committed to record human activities in UK seas that produce loud, low to medium frequency (10Hz-10kHz) impulsive noise. The MMO therefore requests inclusion of the following conditions in the DML;</p>	<i>Only when driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry— (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving/detonation of</i>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p><i>explosives to satisfy the Marine Noise Registry's Forward Look requirements;</i> <i>(b) at six month intervals following the commencement of pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements;</i> <i>(c) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements</i> <i>The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph () above within 7 days of the submission.</i> <i>For the purpose of this condition—</i> <i>(a) "Marine Noise Registry" means the database developed and maintained by JNCC on behalf of Defra to record the</i></p>

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				<i>spatial and temporal distribution of impulsive noise generating activities in UK seas; (b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.</i>
N/A	Condition 23 - Reporting of cable protection	NE	Natural England recommends inclusion of a new condition to allow for appropriate reporting on the location of all cable protection, including volumes of cable protection. This reporting is required to ensure the cable protection deployed is within the permitted levels and to inform the need for decommissioning of cable protection and cables in the future.	<i>(1) Not more than 4 months following completion of the constriction phase of the project, the undertaker shall provide the MMO and Natural England with a report setting out details of the cable protection used for the authorised scheme.(2) The report shall include the following information—(c) location of the cable protection;(d) volume of cable protection; and(e) any other information relating to the cable protection as agreed between the MMO and the undertaker.</i>
SCHEDULE 12 — Deemed Marine Licence under the 2009 Act – Transmission Assets				

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
PART 1 — Licensed Marine Activities				
Article 1 - Interpretation		MMO and Natural England	<p>MMO comment:</p> <p>“The interpretation of ‘commence’ for both the DCO and DMLs excludes offshore site preparation works. The definition for ‘Offshore Site Preparation Works’ specifically includes surveys and monitoring but also sandwave levelling and boulder clearance. Such a definition also has the potential to include Unexploded Ordinance (UXO) clearance and other works. The MMO considers that offshore preparation works should be included in the interpretation of ‘commence’.”</p> <p>Natural England comment:</p> <p>“Additional to the concerns on arbitration, Natural England cannot agree to the definition of ‘offshore preparation works’ as currently provided within the draft DCO and DMLs. The definition allows works such as sandwave levelling and boulder clearance to be conducted without any regulatory oversight or control of the methodology. These works form a significant part of the</p>	<p>“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for operations consisting of offshore site preparation works, pre-construction monitoring surveys approved under this licence and “commenced” and “commencement” must be construed accordingly;</p> <p>...</p> <p>“offshore site preparation works” means any activities within the Order limits seaward of MHWS undertaken prior to the commencement of construction to prepare for construction, including but not limited to surveys, monitoring, boulder clearance and sandwave clearance;</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			impact of the project, including a significant part of the impact to designated sites, and must be subject to appropriate regulatory review and sign off prior to any works commencing.”	
Article 1 - Interpretation		Applicant	Due to amendments to conditions - see below.	“European offshore marine site” has the meaning given in regulation 18 of the 2017 Regulations;

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
Article 1 - Interpretation		Applicant	Due to amendments to conditions - see below.	<i>“in principle Hornsea Three Southern North Sea Site of Community Importance Site Integrity Plan” means the document certified as the in principle Hornsea Three Southern North Sea Site of Community Importance Site Integrity Plan by the Secretary of State for the purposes of this Order;</i>
Article 1(4)(a)		MMO	The correct contact details for the Marine Management Organisation are as follows: Marine Management Organisation, Marine Licensing Team, Lancaster House Hampshire Court, Newcastle Business Park, Newcastle upon Tyne, NE4 7YH Tel: 0300 123 1032	Offshore Marine Licensing Team Lancaster House Hampshire Court Newcastle Business Park Newcastle upon Tyne NE4 7YH Tel: 0300 123 1032;
Article 2 - Details of licensed marine activities		Examining Authority	Paragraph 5.5.1.2 of the Report to Inform Appropriate Assessment [APP-051] states that material from sandwaves cleared within The Wash and North Norfolk Coast SAC would be deposited within the site boundary. How has this mitigation been secured in the dDCO and/or DMLs?	(a) the deposit at sea <i>within the Order limits seaward of MHWS</i> of the substances and articles specified in paragraph 4 below <i>and up to 2,218,816 cubic metres of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works within Work Nos. 2, 3, 4 and 5;</i> (b) the construction of works in or

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<p>over the sea and/or on or under the sea bed; dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works;</p> <p>(c) boulder clearance works either by displacement ploughing or subsea grab technique or any other equivalent method;</p> <p>(d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;</p> <p>(e) removal of static fishing equipment;</p> <p>(e) the disposal within the Order limits seaward of MHWS of up to 2,218,816 cubic metres of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works within Work Nos. 2, 3, 4 and 5; and</p> <p>(g)(f) site preparation works.</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
Article 3 - Details of licenced marine activities		Applicant	To correct drafting error.	devices;. <i>and (c) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development.</i>
Article 6 - Details of licenced marine activities	Deleted.	MMO and Natural England	As above	6. Any offshore site preparation works undertaken shall not be considered to have commenced the licenced activities for the purposes of any condition of this licence that requires any discharge prior to such commencement.
Article 8 - Details of licenced marine activities	Article 7		To correct drafting error.	8. The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section s 72(7) <i>and (8)</i> relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).
Article 10 - Details of licenced marine activities	Article 9	Applicant	To correct drafting error.	Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority <i>MMO</i> or that other person that the subject matter of the agreement sought is unlikely

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.
PART 2 — Conditions				
Condition 2(9) - Design parameters		Applicant	To correct drafting error.	9) The volume of scour protection material for offshore electrical installation foundations must not exceed 534,400 291,200 cubic metres.
Condition 3(1) - Design parameters		MMO	<p>The DCO proposes 2,201,000m³ volume of cable protection excluding cable crossings. The maximum volume of protection for cable crossings proposed is 784,875m³. The total volume of cable protection in the draft DCO is 2,985,875m³. Cable protection proposed in the ES project description however states the following:</p> <ul style="list-style-type: none"> • Export cable: 1,146,000m³ (Table 3.46, page 37) • Cable crossing: 1,146,000m³ (Table 3.48, page 38) • Array cables: 830,000m³ (Table 3.33, page 29) • Interconnectors: 225,000m³ (Table 3.50, page 38). <p>The total volume of cable protection proposed in the ES project description</p>	3—(1) The total length of the cables and the volume of their cable protection (excluding cable crossings) must not exceed the following—

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>is therefore 3,347,000m³, which is significantly higher than that stated in the DCO.</p> <p>Schedule 11 defines the volume of cable protection as 1,055,000m³ whereas Schedule 12 defines a total volume of 1,371,000m³. Added together, the DMLs propose a total volume of 2,426,000m³. Neither of the draft DMLs give any indication as to whether the total volumes include cable protection for cable crossings. The footprint of cable protection (excluding cable crossings) proposed in the DCO identifies a maximum footprint of 1,540,700m² in addition to the maximum footprint for cable crossings of 747,500m². Calculated together the DCO proposes a maximum footprint for cable protection of 2,288,299m². The cable protection footprint proposed in the ES project description is as follows:</p> <ul style="list-style-type: none"> • Export cable: 802,200m² (Table 3.46, page 37) • Cable crossing: 802,200m² (Table 3.48, page 38) • Array cables: 581,000m² (Table 3.33, page 29) • Interconnectors: 157,500m² (Table 3.50, page 38) 	

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			The total volume of cable protection proposed in the ES project description therefore amounts to 2,342,900m ² , which is significantly higher than that proposed in the DCO. The MMO requests further clarification of the cable protection footprint and volume and for corrections to be made to the DCO, DMLs and ES accordingly.	
N/A	Condition 5 - Phases of authorised development	Applicant	New conditions- added to clarify phasing requirements.	<i>5.—(1) The authorised development may not be commenced until a written scheme setting out the phases of construction of the authorised project has been submitted to and approved by the MMO. (2) The scheme must be implemented as approved.</i>
N/A	Condition 7 - Extension of time periods	MMO	Both DMLs set out the requirement for all pre-construction documentation and plans under Condition 11 or 12 to be submitted for approval 4 months prior to the commencement of any licenced activity. Considering the increased size and complexity of the Round 3 offshore wind farm projects and the increasing number of issues encountered on previous offshore wind farm projects throughout the pre-construction approval process, the MMO consider that a timeframe of 6 months would be more appropriate to	<i>7. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party.</i>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			address such issues through consultation prior to their approval.	
Condition 6 - Notifications and Inspections	Condition 8 - Notifications and inspections	MMO	<p>The MMO recommends that notification to the MMO Coastal Office should be included, to ensure that the MMO's local office are aware of completion of activities. Notification should take place within 5 days of the completion of the licenced activity. Please see recommended condition wording below and should also be applied to Schedule 12:</p> <p>The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within 5 days of the completion of the licenced activity.</p>	(6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the licenced activity."
Condition 12(1)(a)(i)- Pre-Construction plans and documentation	Condition 14(1)(a)(i) - Pre-Construction plans and documentation	Examining Authority	<p>Condition 11(1)(a)(v) provides for the indicative layout of the WTGs to be approved.</p> <p>A) Why would the layout only be indicative?</p> <p>B)At what stage (if any) would the MMO approve the actual layout?</p>	(a) A design 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, including grid co-ordinates of the centre point of the proposed location for each offshore electrical installation, subject to any micro-siting required due to anthropological constraints, environmental constraints or

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<i>difficult ground conditions</i> and choice of foundation types for all wind turbine generators and offshore accommodation platforms;
Condition 12(1)(a)(vi) - Pre-construction plans and documentation	Condition 14(1)(a)(vi) - Pre-construction plans and documentation	Natural England	The standard approach of all offshore wind farms is to conduct a preconstruction survey to ensure there are no habitats of ecological importance and where they are present every effort should be made to avoid impacting on them. The Generation DML also has no pre-construction or post construction monitoring requirement to identify any features of ecological importance. The DMLs do not include a requirement to micro-site around habitats of ecological importance outside of European designated sites (only reference to micro siting outside the sites relates to archaeological features). It is Natural England's view that the lack of micro-siting and monitoring requirements is not appropriate. We also question how the project intends to micro-site within a European site if no pre-construction survey to identify ecological features is proposed under the Generation DML. The lack of surveys outside of designated sites could also lead to	any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph 14(2)(d) 12(2)(e) <i>or relating to any Annex I reefs identified as part of surveys undertaken in accordance with condition 18;</i>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			disposal activities occurring affecting ecologically important habitats.	
Condition 12(1)(a)	Condition 14(1)(a)	Applicant	To correct drafting error.	to ensure conformity with the description of Work No. 1 and compliance with conditions 1 to (2) above <i>save that where the proposed layout prescribed in the design plan under this condition is in accordance with the development principles set out volume 2, chapter 7, and volume 5, annex 7.1 to the environmental statement that the layout shall not require the consent of the MMO.</i>
Condition 12(1)(d)	Condition 14(1)(d)	Applicant	To correct drafting error.	(d) a project environmental management <i>plan</i> and monitoring plan covering the period of construction and operation to include details of—
Condition 12(1)(h)	Conditions 14(1)(h)	Examining Authority	The ES [APP-067] discusses the vessel to subsea structure allision risk resulting from presence of subsea high voltage alternating current (HVAC) booster stations and cable protection. Section 18.4 of the Navigational Risk Assessment [APP-112] identifies a key area of risk approximately 5nm north of the landfall location, together with specific cable/pipeline crossings which may be of concern. Please provide further information	(ii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment <i>encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following</i>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			<p>about the existing depths of water, the likely reductions in depth due to subsea works and the range of draughts of vessels typically navigating through these areas of risk/concern.</p> <p>The ES refers to potential further mitigation being required should subsea offshore HVAC booster stations be utilised. Please give examples of what such further mitigation might be.</p>	<p>consultation with the MCA) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and</p>
Condition 12(2)	Condition 14(2)	Examining Authority	<p>Condition 11(2) provides for a written scheme of archaeological investigation to be submitted.</p> <p>A) Does the drafting make clear that this scheme would be subject to the approval of the MMO?</p>	<p>The licensed activities or any part of those activities must not commence unless no later than six months prior to the commencement a written scheme of archaeological investigation has been submitted to and approved by the MMO, in accordance with the outline written scheme of investigation, and in accordance with industry good practice, in consultation with the statutory historic body to include</p>
Condition 12(3)	Condition 14(3)	MMO	<p>The MMO recommends inclusion of the following condition to ensure that no known or unknown archaeological artefacts are at risk from the proposed investigation works;</p>	<p>Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific Written Scheme of Investigation which is itself in</p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
				<i>accordance with the details set out in the outline offshore Written Scheme of Investigation, and which has been submitted to and approved by the MMO.</i>
N/A	Condition 14(5)	Natural England	<p>The DMLs have proposed the inclusion of a mitigation condition for harbour porpoise in the Southern North Sea cSAC/SCI similar to that included in Hornsea Project Two. Natural England notes that a Marine Mammal Mitigation Protocol will be provided to remove the risk of potential death and/or injury to marine mammals. In addition, the Project should have a Site Integrity Plan – a live document, which needs to be updated prior to construction to inform the relevant authority’s Appropriate Assessment of disturbance to harbour porpoise.</p>	<p><i>(5) In the event that driven or part-driven pile foundations are proposed to be used, the licenced activities, or any phase of those activities must not commence until a site integrity plan which accords with the principles set out in the in principle Hornsea Three Southern North Sea Site of Community Importance Site Integrity Plan has been submitted to the MMO and the MMO is satisfied that the plan provides such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.</i> (3) In the event that driven or part-driven pile foundations are proposed to be used, the MMO must not approve the plan referred to in paragraph (1)(a) unless the MMO is satisfied, after consulting such persons as the Secretary of</p>

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				<p>State may specify (in addition to the persons with whom consultation is otherwise required under this Condition), that the plans provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that marine mammals are a protected feature of that site.(4) The mitigation referred to in paragraph (4) may include (without limitation) —(a) seasonal restrictions to piling;(b) scheduling of piling, having regard to previous, ongoing and future piling associated with other offshore developments, based on an updated assessment of cumulative impacts;(c) the use of alternative foundation methodologies, such as jacket foundations or gravity base foundations;(d) the use of noise reduction at source technologies; and(e) the use of other relevant technologies or methodologies that may emerge in the future.(5) In paragraph (4), “relevant site” means — (a) a European offshore marine site; or(b) a European site.Following definition added: <i>“In principle Hornsea Three Southern North Sea Site of</i></p>

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				<i>Community Importance Site Integrity Plan</i> ” means the document certified as the in principle Hornsea Three Southern North Sea Site of Community Importance Site Integrity Plan by the Secretary of State for the purposes of this Order; And following definition removed: “European offshore marine site” has the meaning given in regulation 18 of the 2017 Regulations;
N/A	Condition 14(6)	Examining Authority	Paragraph 4.11.1.33 of the ES [APP-064] considers maximum hammer energy for piling operations. The MMO [RR-085] recommends that a condition is included to restrict the maximum hammer energy to the worst case scenario (5,000kJ), as assessed in the ES. However, that maximum relates to a WTG type which may not be used. There is an example (Dogger Bank Teesside A and B) of imposing limits relevant to the various foundation types under consideration.	<i>(6) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000kJ.</i>
Condition 13(1)	Condition 15(1)	MMO	The DML for the Generation Assets (Schedule 11) Condition 11 (2) (f) sets out the monitoring requirements for the pre-construction documentation. This condition is linked to the standard pre-construction timing requirement which	Each programme, statement, plan, protocol or scheme required to be approved under condition 14 12 <i>(save for that required under condition 14(1)(f))</i> must be submitted for approval at least four

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			states that all documentation is required to be submitted no less than 4 months prior to the commencement of the licenced activities. The MMO advises that pre-construction monitoring should have been undertaken well in advance of this date.	months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.
Condition 13(2)	Condition 15(2)	MMO	The proposed timescales conditioned in the DMLs require a response period of 8 weeks following receipt of all post-consent documentation. The MMO considers that this would not provide sufficient time for consultation and subsequent comment, based on the experience of offshore wind farm licence management in the past. The MMO recommends that a minimum period of 6 months is applied for consideration of post-consent documentation submission to allow for sufficient stakeholder consultation and comment to be provided. The MMO also recommends removal of the requirement that any failure to provide a decision in time may lead for the matter to be referred to arbitration.	The MMO shall determine an application for consent made under this article within a period of eight weeks four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.
Condition 16 - Monitoring and surveys	Condition 18 - Pre-construction monitoring and surveys	Applicant	MMO Comment:"1.8. Neither of the DMLs include any requirement for micro-siting around features of ecological importance outside of any European Designated Site. In addition,	<i>(1) The undertaker must submit in discharging condition 14(1)(f) submit a monitoring plan or plans in accordance with an in-principle monitoring plan for</i>

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			<p>no conditions for pre- or post-construction monitoring for features of ecological importance have been included in the Generation Assets DML (Schedule 11?). The MMO notes that it is a standard approach of all offshore wind developments to conduct pre- and post-construction surveys to ensure that there will be no impacts on features of ecological importance outside of any European Designated Site. The MMO suggests that the applicant provides details of pre- and post-construction monitoring surveys to inform micro-siting around any features of ecological importance prior to the commencement of any licenced works and to provide evidence post-construction as to the impact on any such features as a result of the development. Please see paragraph 1.47 and 1.67 for further detail." Natural England's comment:"A.5. The standard approach of all offshore wind farms is to conduct a preconstruction survey to ensure there are no habitats of ecological importance and where they are present every effort should be made to avoid impacting on them. The Generation DML also has no pre-construction or post construction monitoring requirement to identify any</p>	<p><i>written approval by the MMO in consultation with the relevant statutory bodies, which shall contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report, and;(a) the survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the preconstruction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.(2) Subject to receipt</i></p>

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			<p>features of ecological importance. The DMLs do not include a requirement to micro-site around habitats of ecological importance outside of European designated sites (only reference to micro siting outside the sites relates to archaeological features). It is Natural England's view that the lack of micro-siting and monitoring requirements is not appropriate. We also question how the project intends to micro-site within a European site if no pre-construction survey to identify ecological features is proposed under the Generation DML. The lack of surveys outside of designated sites could also lead to disposal activities occurring affecting ecologically important habitats."</p>	<p><i>from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the pre-construction surveys must comprise, in outline—(a) a high-resolution swath bathymetric survey to include a 100% coverage and a side-scan sonar survey of the parts of the offshore Order limits within which it is proposed to carry out construction works and disposal activities under this licence. Survey to provide a baseline of the seabed environment and bathymetric conditions against which specific post construction marine process monitoring can be undertaken, as set out within the in-principle monitoring plan; (b) a survey (in the parts of the offshore Order limits in which it is proposed to carry out construction works under this licence), to determine the location, extent and composition of any biogenic or geogenic reef features (c) a survey (in the parts of the offshore Order limits in which it is proposed to carry out construction works under this licence) to provide a baseline of the benthic environment within</i></p>

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				<p><i>designated sites against which specific post construction benthic monitoring can be undertaken, as set out within the in-principle monitoring plan; (d) a full sea floor coverage swath-bathymetry survey within the Order limits to inform future navigation risk assessments as part of the cable specification and installation plan(3) Any monitoring report compiled in accordance with the monitoring plans provided under this condition must be provided to the MMO no later than four months following completion of the monitoring to which it relates.</i></p>
N/A	Condition 19 - Construction monitoring	Applicant	<p>1.36. Part 2 (11) (1) (b) (page 135) - Pre-construction plans and documentation</p> <p>The MMO recommends that submission of a construction programme should also include a construction monitoring plan in line with the principal monitoring plan. Proposed timings for mobilisation should include whether such works will be carried out as a single offshore phase or as multiple phases.</p>	<p><i>(1) The undertaker must in discharging condition 14(1)(f) submit a construction monitoring plan or plans for written approval by the MMO in consultation with the relevant statutory nature conservation body, which shall include details of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey</i></p>

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			<p>Furthermore, the MMO recommends that the construction programme should include proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with the relevant monitoring conditions in the DML(s).</p>	<p><i>proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.</i></p> <p><i>(2) Subject to receipt from the undertaker of specific proposals pursuant to this condition, so far as applicable, the construction monitoring plan must include in outline details of vessel traffic monitoring by automatic identification system for the duration of the construction period including obligations to report annually to the MMO and the MCA during the construction phase of the authorised development.</i></p> <p><i>(3) The undertaker must carry out the surveys specified within the construction monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant</i></p>

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				<i>statutory nature conservation body.</i>
N/A	Condition 20 - Post-construction monitoring	Applicant	1.68. Part 2 (16) (2) (c) (i) (page 155) – Monitoring and surveys It is unclear from this condition whether post construction monitoring will be undertaken. The MMO requests further clarification of the terms ‘representative proportion’ and ‘sensitive cable protection’.	<i>(1) The undertaker must in discharging condition 14(1)(f) submit a post-construction monitoring plan or plans for written approval by the MMO in consultation with the relevant statutory nature conservation body including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement. (2) Subject to receipt of specific proposals, so far as applicable, the post-construction survey</i>

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				<p><i>plan or plans must include, in outline— (a) details of a high-resolution swath bathymetric survey to be undertaken no sooner than 6 months following completion of construction works and disposal activities were carried out under this licence to assess recovery of sandwave features within any designated site, and any changes bathymetric profile in designated sites following application of cable protection material. The need for further surveys must be agreed in writing with the MMO following submission of the first year of survey data; (b) details of a survey to determine any change in the location, extent and composition of any biogenic or geogenic reef feature identified in the pre-construction survey in the parts of the offshore Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey; (c) details of a survey to determine the recovery of any benthic features of ecological</i></p>

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				<p><i>importance within designated sites, following cable burial and excavation of HDD exit pits, and to assess degree colonisation of cable protection material as detailed within the in-principle monitoring plan. The survey design must be informed by the results of the pre-construction benthic survey. The need for further surveys must be agreed in writing with the MMO following submission of the first year of survey data; (d) details of vessel traffic monitoring by automatic identification system, for a period of 28 individual days taking account seasonal variations in traffic patterns over the course of one year to be submitted to the MMO and the MCA no later than one year following completion of the construction phase of the authorised development; and(e) details of a full sea floor coverage swath-bathymetry survey of the areas within which construction activity has taken place in order to inform of any dropped objects or residual navigational risk. (3) The undertaker must carry out the</i></p>

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				<i>surveys specified within the post-construction monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.</i>
N/A	Condition 21 - Timing of Monitoring Report	Natural England	Natural England also requests that timescales for provision of monitoring reports are defined in the DCO/DMLs. This is for the regulator and the SNCBs to be able to compare the site specific monitoring data against the worst case scenario impacts assessed in the ES. We propose that four months after completion of a survey presents a reasonable timeframe for submitting the monitoring report for review.	<i>(3) Any monitoring report compiled in accordance with the monitoring plans provided under this condition must be provided to the MMO no later than four months following completion of the monitoring to which it relates.</i>
N/A	Condition 22 - Reporting of impact pile driving	MMO	Under the UK Marine Strategy, all developers are committed to record human activities in UK seas that produce loud, low to medium frequency (10Hz-10kHz) impulsive noise. The MMO therefore requests inclusion of the following conditions in the DML;	<i>Only when driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry— (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving/detonation of</i>

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				<p><i>explosives to satisfy the Marine Noise Registry's Forward Look requirements;</i> <i>(b) at six month intervals following the commencement of pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements;</i> <i>(c) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements</i> <i>The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph () above within 7 days of the submission.</i> <i>For the purpose of this condition—</i> <i>(a) "Marine Noise Registry" means the database developed and maintained by JNCC on behalf of Defra to record the</i></p>

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				<i>spatial and temporal distribution of impulsive noise generating activities in UK seas;</i> <i>(b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.</i>
N/A	Condition 23 - Reporting of cable protection	Natural England	Natural England recommends inclusion of a new condition to allow for appropriate reporting on the location of all cable protection, including volumes of cable protection. This reporting is required to ensure the cable protection deployed is within the permitted levels and to inform the need for decommissioning of cable protection and cables in the future.	<i>23—(1) Not more than [4 months] following completion of the constriction phase of the project, the undertaker shall provide the MMO [and Natural England] with a report setting out details of the cable protection used for the authorised scheme</i> <i>(2) The report shall include the following information—</i> <i>(a) location of the cable protection;</i> <i>(b) volume of cable protection; and</i> <i>(c) any other information relating to the cable protection as agreed between the MMO and the undertaker.</i>
SCHEDULE 13 — Arbitration Rules				
Rule 6		MMO	This provision stated that the award of costs will be made by the arbitrator	(4) The Arbitrator will award recoverable costs on the general

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			<p>and would be based on the degree of success of the party as stated under provision 6 (4). It is the MMOs interpretation that, in the event that any arbitration decision goes against the opinion of the MMO, the MMO may be required to cover any cost for the arbitration process including the costs to the developer and other parties involved. The MMO considers that such an approach would directly contradict the ‘Polluter Pays’ principle which underlines a sustainable approach to environmental consenting. The MMO considers that any costs for arbitration should be solely borne by the applicant, unless it is deemed that a party has acted unreasonably or in bad faith. Moreover, such an approach may encourage developers to resolve issues by challenging them through arbitration early in the consideration process, since only limited discussions and expert involvement would be expected to have taken place at this stage.</p>	<p>principle that each party should bear its own costs follow the event, having regard to all material circumstances, including such matters as exaggerated claims and/or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.</p>
Rule 7		MMO and Natural England	<p>MMO’s comment: “This provision states that all matters discussed as part of the arbitration process must remain confidential. As the matters discussed will relate to environmental consenting decisions,</p>	<p>(2) The parties and Arbitrator agree that any matters, materials, documents, awards, expert reports and the like are confidential and shall not be disclosed to any third party without prior written consent of the other party, save for any</p>

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			<p>the MMO is confident that it would not be able to refuse a request for such information under the Freedom of Information Act or the Environmental Information Regulations 2004. Confidentiality clauses for arbitration process discussions would directly contradict the requirement for transparency in decision making.”</p> <p>Natural England's comment:</p> <p>“In relation to the confidentiality clause of the arbitration schedule: Natural England is subject to the requirements of the Freedom of Information Act 2000 ('FOIA') and the Environmental Information Regulations 2004 ('EIR'). Therefore Natural England may be obliged to release documents in response to an FOIA or EIR request including any file notes. In respect of any FOIA or EIR request, Natural England is responsible for determining at its absolute discretion whether any information it holds, whether commercially sensitive information or otherwise, is exempt from disclosure in accordance with the provisions of the FOIA or the EIR or is to be disclosed in response to a request for information. Natural England cannot therefore guarantee confidentiality or</p>	<p>application to the Courts <i>or where disclosure is required under any legislative or regulatory requirement.</i></p>

Article / Schedule (Application Version)	New Article/Schedule (if amended)	Stakeholder concerned	Comments from stakeholder	Amendment
			agree to be bound by such a requirement.”	