

Vattenfall Wind Power Ltd

Thanet Extension Offshore Wind Farm

Appendix 13 to Deadline 3 Submission: Written
Summary of Vattenfall's Oral Case put at the
Issue Specific Hearing 7

Relevant Examination Deadline: 3
Submitted by Vattenfall Wind Power Ltd
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Revision A

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Written Summary of Oral Submissions: Development Consent Order (DCO) Hearing

1. INTRODUCTORY REMARKS

- 1.1 This document summarises the Applicant's case as presented at the Issue Specific Hearing (**ISH**) on the draft Development Consent Order (**dDCO**) held on 21st February 2019 at Discovery Park, Ramsgate.
- 1.2 This document summarises the key submissions made in relation to each section of the dDCO. The Panel made the decision to take the interested parties and the Applicant through the dDCO page by page rather than adhering strictly to the Agenda as published on the Planning Inspectorate's website on 6 February 2019. As such, this written summary mimics that approach and considers the dDCO sequentially.
- 1.3 Where there is no reference to a section of the DCO within this note, this indicates that no issues were raised in relation to that section.

2. INTRODUCTION OF THE PARTICIPATING PARTIES

2.1 Speaking on behalf of the Applicant:-

- 2.1.1 In relation to compulsory acquisition and land matters, Jonathan Bower (Partner at Womble Bond Dickinson (UK) LLP)
- 2.1.2 In relation to all other matters, Jennifer Holgate (Managing Associate at Womble Bond Dickinson (UK) LLP)

3. ARTICLE 2 - INTERPRETATION: DEFINITION OF "COMMENCEMENT"

- 3.1 The Marine Management Organisation (**MMO**) raised concerns that the "pre-commencement works" as defined within the dDCO and deemed marine licences (**DMLs**) did not appear to allow approval of all relevant survey work and documentation prior to undertaking such works, by way of example seabed preparation and site selection.
- 3.2 To summarise, the Applicant has excluded certain works from the definition of 'commence' in Article 2. These include archaeological investigations (Requirement 23), remedial work in respect of contamination (Requirement 20) and the erection of any fencing or temporary means of enclosure (Requirement 18), all of which must be undertaken prior to commencement of development. The drafting within the dDCO ensures that these works can be undertaken but are still necessarily controlled, and approved, by the relevant planning authority (or the MMO if a DML). In order to effect this "pre-commencement works" have been defined separately to include these three necessary works.
- 3.3 The requirements separate out those pre-commencement works and they are subject to a separate plans to be submitted for approval prior to those works commencing. This ensures that any works considered necessary to be controlled by requirement do not fall out with the scope of such control. For the same reasons, seabed preparation and clearance is included in the definition of "pre-commencement works" within the deemed marine licenses and is controlled by Condition 20, which requires a method statement to be submitted to the MMO for approval prior to those works commencing.
- 3.4 Ms Holgate explained that the purpose of including such drafting is not undertaken to in anyway bypass the need to obtain specific approvals from the MMO. Neither does it exist to prevent the undertaking of necessary survey work, and the inclusion of necessary documentation at the point of submitting those plans for approval. The Applicant considers that the nature of the majority of the pre-commencement activities undertaken would not give rise to likely significant effects or, therefore, require prior approval of plans. Ms Holgate also explained that there are strong commercial justifications why flexibility to undertake pre-commencement works, without triggering commencement, should be permitted.

3.5 The Applicant agreed to review the drafting contained within the dDCO to see if further comfort could be provided and to continue to discuss this matter with the MMO.

4. ARTICLE 5 - BENEFITS OF THE ORDER

4.1 Ms Holgate confirmed for the Panel that, following the submissions that were made at the Compulsory Acquisition Hearing as to the possible transfer of benefit to a special purpose vehicle, the Applicant is considering ways that Article 5 might be amended to provide comfort that necessary security would be available within the SPV to implement and build out the Project. This would be reviewed and an update provided for Deadline 3.

5. ARTICLE 16 - PUBLIC RIGHTS OF NAVIGATION

5.1 In response to comments from Trinity House, which concerned the lack of time frame within this Article for the submission of plans ahead of the extinguishment of rights, Ms Holgate acknowledged Trinity House's role as responsible for instructing the Applicant on marking of areas of the sea and that advanced notification may be required in order for this to properly take place. The Applicant agreed to continue to liaise with Trinity House to determine an appropriate time frame for providing advance notification prior to the extinguishment of the public rights of navigation. Trinity House agreed to provide suggested wording for Deadline 3.

5.2 Ms Holgate agreed that the Applicant will consider including the Port of London Authority and other impacted ports within the proposed Shipping Cooperation Plan, in order to address concerns raised that these ports would not be made aware of the extinguishment of rights and may require appropriate notification.

5.3 Ms Holgate confirmed that 16(3) is not intended to give rise to multiple phases of the extinguishment of rights for each individual wind turbine and the wording in the dDCO will be amended to clarify this.

6. ARTICLE 35 - CERTIFICATION OF PLANS

6.1 Ms Holgate confirmed that the Applicant is content to convert the certification Article into a Schedule for clarity. In addition, Ms Holgate agreed with the views of the Panel that having such a schedule that references the version of the specific document as certified reduces the possibility of error at the point when the documentation is sent to the Secretary of State for certification.

7. ARTICLE 36 - ARBITRATION

7.1 Ms Holgate explained that the drafting of this Article and the associated Schedule is novel and based on drafting included within the dDCO's for Hornsea Project THREE and Norfolk Vanguard. Such drafting is therefore not contained within a made order. She confirmed that the Applicant will seek confirmation that the inclusion of the Centre for Dispute Resolution is an appropriate body to adjudicate in matters pertaining to arbitration.

7.2 Ms Holgate explained that the Applicant responded in full to concerns raised by Natural England on this topic at Deadline 1 and have not yet received a response.

7.3 The MMO and Trinity House agreed to provide suggested wording for the Arbitration schedule.

7.4 Ms Holgate acknowledged the role of Trinity House and that safety concerns are of paramount importance. In this regard, it is the Applicant's view to the extent that the matter in dispute would prejudice or derogate from any of the rights, duties or privileges of Trinity House then the saving provision at Article 39 would apply and the arbitration article would not be applicable to Trinity House.

7.5 Ms Holgate agreed on behalf of the Applicant to review the Schedule in light of the MMO and Natural England's concerns that in its current form it is not compatible with their public law duties. Ms Holgate also agreed that more generally the Arbitration schedule would be "sense checked" by an international arbitration expert to ensure it is fit for purpose in its current form. The amendments

made following this review are detailed within the Log of Changes to the Draft Development Consent Order as submitted at Deadline 3.

8. SCHEDULE 1, PART 1 - AUTHORISED DEVELOPMENT

- 8.1 In response to a query raised on behalf of Ramac Holdings Ltd, Ms Holgate confirmed that parameters will be removed from works descriptions and contained within the *Detailed design parameters* requirements in the dDCO and DMLs, to ensure consistency.

9. SCHEDULE 1, PART 2 - ANCILLARY WORKS

- 9.1 Ms Holgate agreed with representations made on behalf of Ramac Holdings Ltd that the wording at (d) in this Article should be amended to include, in addition to the wording, "within the scope of the environmental statement" a clearer commitment to not give rise to any materially new, or materially different, environmental effects. It was agreed that this wording would be reviewed where it arises throughout.

10. SCHEDULE 1, PART 3 - REQUIREMENT 6 (AVIATION SAFETY)

- 10.1 Ms Holgate and Trinity House both agreed to discuss further after concerns raised by Thanet Fisherman's Association at ISH6 (Fishing and Commercial Fisheries) in relation to maintenance of platform level lights. Particularly, the Thanet Fisherman's Association asked at that previous hearing if the Applicant could maintain lighting on the wind turbine generator platforms at night time to guide their vessels. The Applicant committed to provide a response to this specific question at Deadline 3.

11. SCHEDULE 1, PART 3 - REQUIREMENT 9 (DETAILED DESIGN PARAMETERS ONSHORE)

- 11.1 In response to a query raised on behalf of Ramac Holdings Ltd., Ms Holgate confirmed that this requirement will be amended to require the design of the onshore substation to be approved by the relevant planning authority prior to construction.

12. SCHEDULE 1, PART 3 - REQUIREMENT 10 (LANDFALL WORKS NOTIFICATION)

- 12.1 Ms Holgate clarified that there is no need for this requirement notifying of landfall works to involve anybody else other than Thanet District Council as the contaminated land plan is not relevant to Dover District Council. Such a provision was not intended to apply across the entirety of the onshore route and only the landfall area.

- 12.2 In response to a query raised by Dover District Council, Ms Holgate confirmed that the Applicant is content to include a standard provision to notify all relevant planning authorities prior to the commencement of any works within a particular stage of development. Ms Holgate did not consider that such a provision should include a timescale as to notification, as this is absolutely standard practice across all planning permissions and made orders.

13. SCHEDULE 1, PART 3 - REQUIREMENT 11 (ACCESS MANAGEMENT STRATEGY (AMS))

- 13.1 In response to a query from the Panel, Ms Holgate asked Sean Leake, consultant at GoBe for the Applicant, to explain how the access to the Sustrans cycle path within the Order limits will be managed.

- 13.2 Mr Leake explained that the Sustrans path will be maintained as open and accessible at all times during construction, subject to very occasional closure to allow vehicles to cross. The Vehicle crossing will be manned at all times. Mr Leake referred to Tables 4 and 4.1 of the Access Management Strategy (PINS Ref APP-136). Ms Holgate also confirmed that the Sustrans path will not be stopped up within the dDCO and necessary diversions will be put in place.

14. SCHEDULE 1, PART 3 - REQUIREMENT 16 (CODE OF CONSTRUCTION PRACTICE):

14.1 In response to a concern raised by Historic England, in relation to mechanisms to report significant archaeological discoveries, Ms Holgate explained that Requirement 22 requires an onshore Written Scheme of Investigation ("WSI"). If a contractor was to not comply, this would be a breach of the Order and would invoke criminal sanction.

15. SCHEDULE 1, PART 3 - REQUIREMENT 18 (ONSHORE SUBSTATION SURFACE WATER AND DRAINAGE MANAGEMENT PLAN):

15.1 For the benefit of the Panel, Ms Holgate explained that this requirement applies only to Work No. 13 (the onshore substation) and is not relevant elsewhere.

16. SCHEDULE 1, PART 3 - REQUIREMENT 22 (ARCHAEOLOGICAL WRITTEN SCHEME OF INVESTIGATION)

16.1 In response to concerns raised by Historic England in relation to the timeframe for the delivery of detailed WSI in accordance with the outlined WSI, Ms Holgate explained that the relevant planning authorities (Dover District Council and Thanet District Council) would consult Historic England and KCC prior to discharging the relevant requirement. As such, Historic England would be properly notified in advance of detailed WSI being implemented. In addition, Ms Holgate explained that the content required in the detailed WSI includes timescales and programme for the delivery of any specific investigations and survey work.

16.2 Ms Holgate explained that this is a standard requirement and recommended that Historic England review the draft onshore WSI upon receipt of it at Deadline 3 and raise any outstanding concerns regarding timescales at Deadline 4.

17. SCHEDULE 8, PROTECTIVE PROVISIONS

17.1 Ms Holgate asked John Hillis, chartered surveyor for the Applicant, to update the Panel on progress relating to protective provisions.

17.2 Mr Hillis explained that the Applicant is in discussions with third parties and these discussions are proceeding positively. The Applicant has consulted with NEMO, UKPN, BT and Southern Water. The Applicant consulted with Scotia Gas and Thanet ONE and received no specific feedback to date.

17.3 Mr Hillis explained the intention is not to have protective provisions on the face of the Order for NEMO: the Applicant is working with them to conclude a side agreement.

17.4 The Applicant agreed to provide continuing update to the Panel throughout the Examination of the progress of any negotiations relating to protective provisions.

18. SCHEDULE 10, PROCEDURE FOR DISCHARGE OF REQUIREMENTS

18.1 Ms Holgate explained that the timescales within the Schedule for discharge of requirements have been extended following representations from Dover District Council. She agreed on behalf of the Applicant to confirm that this Schedule reflects the wording in recently made DCOs, and agreed to review the Schedule further in order to ascertain whether the timescales were fair and reasonable.

19. SCHEDULE 11, DEEMED LICENCE UNDER 2009 ACT – GENERATION ASSETS:

19.1 The Panel asked the MMO to lead the run through of this Schedule.

19.2 Ms Holgate confirmed that dialogue is ongoing with the MMO regarding which parameters should be included on the face of the DMLs. She suggested that it may more effective to use the Explanatory Memorandum to record each figure to ensure that this detail is captured easily in one place.

- 19.3 In relation to **Condition 12** (*Pre-construction plans and documentation*), Ms Holgate confirmed that the Applicant is not willing to amend the timeframes for approval within this condition from four months to six months. She explained that this is a standard timescale included in numerous DCOs and that an additional two months is a substantial burden for the Applicant, being fifty percent longer than the original timescale. In addition, this timeframe has been accepted on significantly larger projects including East Anglia THREE and as such, it is the Applicant's view that it is not necessary for this Project to be required to deviate from the established procedure. There is a strong public interest argument in favour of approvals in a timely manner and ensuring that nationally significant infrastructure projects are not unduly delayed. There is no sound justification provided by the MMO as to why the Project is unduly complex, or time consuming, in comparison to previous and very recently consented Development Consent Orders (such as the Port of Tilbury (Expansion) Order 2019, which contained an approval period of six weeks (Schedule 9, Part 2 (14)(2))).

HEARING ACTION POINTS

Action	Applicant's Response
<p>1. DML Pre-Commencement:</p> <p>Applicant shall pursue with MMO the pre-commencement requirements in the DCO and certified document production in regard to DMLs that need further dialogue over matters of detail.</p>	<p>The Applicant has amended the pre-commencement conditions throughout the DMLs in the dDCO submitted at Deadline 3 as follows:</p> <p><i>Seabed preparation and clearance</i></p> <p><i>Pre-commencement works relating to seabed preparation and clearance must only take place in accordance with a method statement which:</i></p> <p><i><u>(a) has been properly informed by any necessary surveys as are required; and</u></i></p> <p><i><u>(b) has been submitted to and approved by the MMO accompanied by all relevant documentation that may be required; and</u></i></p> <p><i><u>(c) which has regard to the Biogenic Reef Mitigation Plan and the offshore archaeological draft written scheme of investigation (which are the plans as certified in accordance with article 35).</u></i></p>
<p>2. Provision for transfer of benefit of DCO:</p> <p>Applicant to review article 5 in light of outcomes from ISH6 and the potential for future transfer to a SPV.</p>	<p>The Applicant has amended the dDCO submitted at Deadline 3 to include the following wording at Article 5 (Benefit of the Order):</p> <p><i><u>(4) If the undertaker transfers any of all of the benefit of the provisions of this Order pursuant to paragraph (1) and the transferee is a special purpose vehicle entity specifically created for the purpose of implementing and constructing the authorised development, then other than when the transferee is an offshore transmission operator, the transferee must not begin to exercise the powers provided within Parts 3, 4, 5 and 6 of this Order in relation to any land unless it has first put in place either:</u></i></p> <p><i><u>(a) a guarantee, which may be given by the transferring undertaker, in respect of the liabilities of the undertaker to pay compensation under this</u></i></p>

Action	Applicant's Response
	<p><u>Order in respect of the exercise of the relevant power of compulsory acquisition or temporary possession in relation to that land; or</u></p> <p><u>(b) an alternative form of security, including a funding agreement between the transferring undertaker and the transferee or the transferee and a third party, for that purpose which has been approved by the Secretary of State.</u></p> <p><u>(5) Such guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under the Order is to be treated as enforceable against the guarantor by any person to whom such compensation is payable and must be in such form as to be capable of enforcement by such a person.</u></p> <p><u>(6) Such guarantee or alternative form of security will have a maximum liability cap of £8,500,000.</u></p> <p><u>(7) Such guarantee or alternative form of security is to be in place until no later than the date on which, if a referral is made to the Tribunal, it could be defended by the undertaker or transferee on the ground that the relevant period for such any claims has expired and the Limitation Act 1980 applies so as to time-bar such claims or such later date as when all such claims validly made have either been settled or determined by the Tribunal.</u></p>
<p>3. Extinguishment of Rights of Navigation: Notice period to Authorities:</p> <p>The Applicant shall address concern raised direction in regard to article 16 (2) (extinguishment of rights of navigation) in respect of advance notice needed by THLS to prepare requirements for amended aids to navigation to be implemented by the Applicant under THLS.</p>	<p>The Applicant has amended Article 16 within the dDCO submitted at Deadline 3 as follows:</p> <p><u>(4) Trinity House will be notified of any extinguishment of the rights of navigation over the places identified in paragraph (1) at least eight weeks prior to that extinguishment taking place.</u></p>
<p>4. Extinguishment of Rights of Navigation - engagement with PLA- shipping cooperation plan:</p> <p>The Applicant shall consider drafting a shipping cooperation plan to be submitted at D3 to take account of DCO provisions agreed by PLA for Tilbury 2 and Thames Tideway to provide sufficient notice to PLA to be able</p>	<p>The Applicant has submitted a Shipping Liaison Plan at Deadline 3 (Appendix 40). The Plan includes specific reference to the need to provide 14 days' notice before the extinguishment of public rights of navigation and also includes a suggested distribution list which includes the PLA and other relevant ports.</p>

Action	Applicant's Response
to issue notice to mariners in regard to extinguishment of rights of navigation.	
<p>5. Extinguishment of Rights of Navigation- engagement of other port authorities:</p> <p>The Applicant to consider within shipping cooperation plan to be submitted at D3 whether notice in regard to extinguishment of rights of navigation needs to be given to ports/ port authorities other than PLA.</p>	
<p>6. Consequences of applicability of Article 16 to works per WTG:</p> <p>Applicant to consider the potential unintended consequences of drafting for notification of works in a manner that enables notification 'structure by structure', as distinct from by stage.</p>	<p>The Applicant has amended the dDCO submitted at Deadline 3 as follows:</p> <p><i>The plan submitted in accordance with paragraph (2) will be submitted to the Secretary of State, Trinity House, the MCA and the MMO eight weeks prior to the commencement of construction of the first individual wind turbine generator, meteorological mast or offshore substation.</i></p>
<p>7. Presentation of Certified Documents in DCO Article 35</p> <p>Applicant to review presentation of certified documents, with consideration given to a tabulated schedule supporting the use of version control.</p>	<p>The Applicant has amended the dDCO submitted at Deadline 3 to include an additional schedule (Schedule 13 – Documents to be certified).</p>
<p>8. Named arbitrator arrangements:</p> <p>Applicant to confirm whether they have consent of Centre for Effective Dispute Resolution as the named arbitrator and evidence of the qualification of that body to carry out the proposed function</p>	<p>The Centre for Effective Dispute Resolution (CEDR) is one of several independent dispute resolution bodies capable of acting in this capacity. CEDR is a London-based independent non-profit organisation and registered charity number 1060369. Founded in 1989, CEDR are well-established within their field and have a wealth of experience with both private and public sector bodies including Government bodies, chambers of commerce and international development agencies. Further information can be found at their website: https://www.cedr.com/. The Applicant can confirm that utilising a body such as CEDR is entirely appropriate for the purposes of undertaking arbitration of this nature.</p>
<p>9. Arbitration provision concerns of statutory bodies:</p> <p>Applicant to consider the potential for arbitration provisions to conflict with duties and obligations of statutory regulators noting Natural England and MMO have slightly different context to THLS. Applicant also to consider</p>	<p>The Applicant notes that since the creation of the Planning Act 2008, an arbitration provision has been included in made DCOs, and indeed such a provision is included within the Model Articles (Article 42). The need for an Arbitration mechanism is well recognised as part of the regime established</p>

Action	Applicant's Response
<p>whether there is a need for specific provision relating to failure to determine by the SoS?</p>	<p>by the 2008 Act, to ensure that nationally significant infrastructure projects are not subject to delays due to an impasse between parties.</p> <p>Regarding the conflict with the duties and obligations of statutory regulators, the Applicant has taken expert legal advice on this point from litigation and public law specialists at Womble Bond Dickinson (UK) LLP. In short, there is no known statutory basis as to why public law bodies consider that they would be fettered in some way by being subject to some form of arbitration. Arbitration is an agreement to resolve a dispute in a certain way and as such, a general assertion that statutory bodies cannot be subject to arbitration does not appear accurate. The Applicant therefore requires specific submissions from Natural and England and the MMO as to why their status as a statutory body should preclude them from submitting to arbitration. Whilst the Applicant does – as has – acknowledged several of the points raised by stakeholders the rationale provided previously do not explain in sufficient detail as to why that is indeed the case. The Applicant will need reference to specific sections of legislation or the specific powers that those bodies consider in some way is being fettered. Of course the Applicant will engage with these bodies to seek to resolve this and update the Examining Authority accordingly.</p> <p>The Applicant has clarified that the arbitrator will either be agreed upon by the parties or by the Centre for Effective Dispute Resolution. The option to refer the appointment of the arbitrator to the Secretary of State has been removed. This is because the Secretary of State could be directly affected by, or in some way an interested party to, the difference which is being arbitrated. In this scenario, it would not be appropriate for the SoS to appoint an arbitrator.</p> <p>The Applicant has also clarified that the time period will be calculated from the day after the Arbitrator notifies the parties in writing of their acceptance, whether they are appointed by agreement between the parties or by the Centre for Effective Dispute Resolution.</p>
<p>10. Arbitration provision form of words:</p> <p>MMO and THLS to consider submitting suitable alternative form of words regarding arbitration and with reference to draft provisions in the Norfolk Vanguard dDCO.</p>	<p>Whilst this action is for the MMO and THLS, the Applicant notes that dialogue is ongoing and has additionally reviewed submissions made in relation to Norfolk Vanguard and made the following amendment to the dDCO submitted at Deadline 3, in order to ensure that in relation to issues concerning confidentiality, the arbitration provisions is not perceived in some</p>

Action	Applicant's Response
	<p>way to prevent compliance with confidentiality requirements imposed by legislation and any other statutory obligations.</p> <p><i>(2) The parties and Arbitrator agree that any matters, materials, documents, awards, expert reports and the like are confidential and must not be disclosed to any third party without prior written consent of the other party, save for any application to the Courts <u>and for compliance with legislative rules, functions or obligations on either party.</u></i></p>
<p>11. Maximum design parameters:</p> <p>Applicant shall propose a consistent mechanism to define maximum design parameters in a single location to avoid potential for discrepancies.</p>	<p>The Applicant has removed the parameters from Schedule 1, Part 1- Authorised Development and within dDCO all parameters are now confined to Requirement 2 – Detailed offshore design parameters and Requirement 9 – Detailed design parameters onshore. Details of this change can be found within the Log of Changes to the Draft Development Consent Order as submitted at Deadline 3.</p>
<p>12. Lettered Further Works and Other Works:</p> <p>Applicant to consider locational specification to be added to lettered further works and other works for clarity and to avoid the potential for creating additional environmental effects not handled by the ES.</p>	<p>The Applicant has amended this wording throughout dDCO submitted at Deadline 3 as follows:</p> <p><i>and in connection with such Work Nos. 4A to 16 to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and <u>which would not give rise to any materially new or materially different environmental effects from those which fall within the scope of the work assessed by the environmental statement including:</u></i></p>
<p>13. Grid Coordinate audit:</p> <p>Applicant to carry out a GIS audit of the grid coordinates in the DCO and DMLs to ensure consistency with plans.</p>	<p>The Applicant welcomes this recommendation and will conduct a full GIS audit by Deadline 6 as suggested.</p>
<p>14. Aviation safety:</p> <p>Applicant will amend the requirement to read "...exhibit and maintain..."</p>	<p>The Applicant has amended the dDCO submitted at Deadline 3 to include this wording.</p>
<p>15. Normal platform level lighting:</p>	<p>The Applicant has welcomed ongoing discussions with Trinity House in relation to this issue. It is noted by both the Applicant and Trinity House that this action is to be resolved by Deadline 4, and the Applicant anticipates</p>

Action	Applicant's Response
<p>Applicant will review if the provision and maintenance of normal low-level lighting has been covered in the Environmental Statement and has been duly assessed for impact. If it has been assessed:</p> <ul style="list-style-type: none"> • noting submissions from the fishing community at ISH6 about the usefulness of platform level lighting as an aide to manoeuvring small fishing vessels, but that concerns arose where such lights on the constructed Thanet OWF had not been maintained, the Applicant and THLS will consider the appropriateness of maintaining that lighting for that purpose; and • the Applicant will give further consideration as to whether the maintenance of that lighting ought to be secured in the Order or a certified document 	<p>being able to provide a full response at this Deadline following the conclusion of this discussions.</p>
<p>16. Discharge of design requirement</p> <p>Applicant to include wording (equivalent to that for landscape design) on approval of detailed design of the substation (Work No.13) by local planning authority.</p>	<p>The Applicant has amended the dDCO submitted at Deadline 3 as follows:</p> <p>Detailed design parameters onshore</p> <p>—(1) <i>The total number of buildings housing the principal electrical equipment for the onshore substation comprised in Work No. 13 must not exceed one.</i></p> <p><u>(2) Construction works for the building referred to in paragraph (1) above must not commence until details of the layout, scale and external appearance of the same have been submitted to and approved by the relevant planning authority. The onshore substation must be carried out in accordance with the approved details.</u></p> <p>(3) <i>Any details provided by the undertaker pursuant to paragraph (2) must accord with the design and access statement and be within the Order limits.</i></p> <p>(4) <i>Buildings comprised in Work No. 13 must not exceed a height of 14 metres above existing ground level and external electrical equipment comprised in Work No. 13 must not exceed a height of 12.5 metres above existing ground level.</i></p>
<p>17. Notification of commencement of works:</p> <p>Applicant to consider the inclusion in the order of an acceptable period for notification to the relevant LPA of commencement of works, congruent with</p>	<p>The Applicant has amended the dDCO submitted at Deadline 3 as follows:</p> <p>Stages of authorised development onshore</p>

Action	Applicant's Response
<p>commencement notification requirements contained within ArchWSI, CEMP, LEMP etc.</p>	<p>8.—(1) <i>The connection works may not be commenced until a written scheme setting out the stages of the connection works has been submitted to the relevant planning authority.</i></p> <p><u><i>(2) The undertaker must notify the relevant planning authority that it is commencing work for a stage of the connection works in writing at least five days prior to that event taking place.</i></u></p>
<p>18. Process for Discharge of Requirements Schedule 10:</p> <p>Applicant to review with Local Authorities the process for discharge of Onshore requirements with reference to analogous precedent DCOs</p>	<p>The Applicant has reviewed the timeframes within Schedule 10 and has compared them to a range of recently made Orders, including the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (Schedule 7) and The Silvertown Tunnel Order 2018 (Schedule 2). The timeframes are consistent with those within made Orders, with the exception of additional wording at 3(2)(c)-</p> <p><i>as soon as is practicable after receiving the appeal documentation, but in any event within 10 business days of receiving the appeal documentation, the Secretary of State must appoint a person and forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person's attention should be sent;</i></p> <p>The Applicant welcomes ongoing discussion with the relevant planning authorities with regards the suitability of the timeframes within this Schedule.</p>
<p>19. Onshore Archaeological WSI</p> <p>Applicant to consult with HE and KCC subsequent to delivery of draft Onshore Archaeological WSI at D3.</p>	<p>The Applicant welcomes ongoing discussions with Historic England and is continuing to work towards finalising a Statement of Common Ground. The Applicant submitted a draft Onshore Archaeological WSI at Deadline 3 and awaits comments from Kent County Council and Historic England.</p>
<p>20. DML Maximum parameters:</p> <p>Applicant to continue discussions with MMO for set of design and construction parameters to appear on the face of the DMLs.</p>	<p>The Applicant has continued discussions with the MMO and agreed to specify the Environmental Statement as a certified document within the revised dDCO submitted at Deadline 3. The Environmental Statement includes all of the relevant design and construction parameters and it is considered that by being explicit on the face of the dDCO that this is certified, the Applicant has to comply with all parameters contained within it. The Applicant appreciates that contractors' need to have all parameters in one place for ease of reference and as such as has included a full list at</p>

Action	Applicant's Response
	Annex C to the Explanatory Memorandum submitted at Deadline 3. This is the appropriate place for such a summary of the parameters to be located as this forms the guide through which those seeking to understand the project and interpret the dDCO would utilise as an appropriate reference point.
<p>21. Offshore pre-construction plans and documentation- submission time periods</p> <p>Applicant will:</p> <ul style="list-style-type: none"> • consult further with MMO on consequences of 6 months rather than 4 months advance periods for submission of pre-construction plans and documentation for approval and • provide to ExA a written submission of agreement or disagreement. 	<p>The Applicant understands from a meeting with the MMO on Tuesday 26th February 2019 that this issue is still under consideration. The MMO are considering whether there may be a need to differentiate between certain pre-construction plans and documentation and to ask for four or six months discharge periods depending on the condition in question. The Applicant welcomes ongoing discussion but maintains, for the reasons set out at ISH7 and within this document, that four months is a suitable timescale to retain throughout the DMLs.</p>