

# **Vattenfall Wind Power Ltd**

## **Thanet Extension Offshore Wind Farm**

Annex A to Appendix 50 to Deadline 6  
Submission: Log of Changes to the draft  
Development Consent Order

Relevant Examination Deadline: 6

Submitted by Vattenfall Wind Power Ltd

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Revision F

Drafted By:	Womble Bond Dickinson
Approved By:	Daniel Bates
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Revision:	F

Revision A	Original document submitted to the Examining Authority
Revision B	Revised document submitted to the Examining Authority
Revision C	Revised document submitted to the Examining Authority
Revision D	Revised document submitted to the Examining Authority
Revision E	Revised document submitted to the Examining Authority
Revision F	Revised document submitted to the Examining Authority

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Schedule of changes to the draft Thanet Extension DCO

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
1.	Schedule 2	In their Section 51 advice issued to the Applicant, the Planning Inspectorate noted that:  "In relation to the dDCO Schedule 2, the dDCO refers to the works plans. This should be the onshore street works plans."	The wording has been amended throughout Schedule 2, for example –  <i>SANDWICH ROAD at reference point A-B on the <u>onshore street</u> works plan</i>	2
2.	Schedule 1, Part 3 (3)	In their relevant representation, the MMO noted that:  "The requirement states that the maximum number of Floating Lidar Devices (FLD) must not exceed one. The ES project description states one FLD and one wave buoy. The wave buoy should also be included within the requirement."	<i>The total number of offshore substations forming part of the authorised project must not exceed one, and the total number of meteorological masts must not exceed one and the total number of Floating Lidar Devices must not exceed one, <u>and the total number of wave buoys must not exceed one.</u></i>	2
3.	Schedule 11, Part 4 (22)  Schedule 12, Part 4 (22)	In their relevant representation, the MMO recommended the inclusion of decommissioning condition;  "some suggested wording is provided for consideration; a) No decommissioning activities may commence until a plan for the carrying out of the activities has been submitted to and approved in writing by the MMO b) The plan must be submitted for approval at least six months before the intended start of the decommissioning activities, except where otherwise stated or unless otherwise agreed in writing by the MMO. c) The plan must be implemented as approved."	<b><u>Decommissioning</u></b>  <i><u>—(1) No decommissioning activities may commence until a plan for the carrying out of the activities has been submitted to and approved in writing by the MMO.</u></i>  <i><u>The plan must be submitted for approval at least six months before the intended start of the decommissioning activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.</u></i>  <i><u>The plan must be implemented as approved.</u></i>	2

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4.	Schedule 11, Part 1 (1) Schedule 12, Part (1)	In their relevant representation, the MMO noted that:  ““2007 Regulations”, “European Offshore Marine Site and “European Site” This requires updating to the Conservation of Offshore Marine Habitats and Species Regulations 2017.”	<i>“2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017;</i>  <i>“European offshore marine site” has the meaning given in regulation 15 of the 2017 Regulations;</i>  <i>“European site” has the meaning given in regulation 24 of the 2017 Regulations</i>	2
5.	Schedule 11, Part 1 (1) Schedule 12, Part (1)	In their relevant representation, the MMO noted that:  “This should say “authorised deposits” means the substances and articles specified in Part 2, paragraph 2(3) of this licence.”	<i>“authorised deposits” means the substances and articles specified in Part 2, paragraph 2(3) of this licence.</i>	2
6.	Schedule 11, Part 1 (1) Schedule 12, Part (1)	In their relevant representation, the MMO noted that:  “This should read: “condition” means a condition in Part 4 of this licence.”	<i>“condition” means a condition in Part 4 of this licence;</i>	2
7.	Schedule 11, Part 1 (1) Schedule 12, Part (1)	In their relevant representation, the MMO noted that:  ““Licensed activities” This should read: activities specified in Part 2 of this licence.”	<i>“licensed activities” means the activities specified in Part 2 of this licence</i>	2
8.	Schedule 11, Part 2 (2)	In their relevant representation, the MMO noted that:  “This refers to benefit of the Order and cross references to article 6, this should be corrected to article 5.”	<b>Licensed Marine Activities – General</b>  <i>(2) The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).</i>	2

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9.	Schedule 11, Part 3 (1) (a) Schedule 12, Part 3 (1) (a)	In their relevant representation, the MMO noted that: "1(a) refers to "the deposit at sea of the substances and articles specified in sub-paragraph (3) below:" The MMO queries whether this is the correct reference."	<i>1. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act—</i>  <i>(a) the deposit at sea of the substances and articles specified in <a href="#">paragraph 5 of Part 2 of this licence</a>;</i>	2
10.	Schedule 11, Part 3 (2)(2)(b)	In their relevant representation, the MMO noted that: "The condition should state "up to one meteorological mast fixed to the seabed within the area shown on the works plan by an associated foundation (namely one or more of the following: monopoles, three legged jackets on either pin piles or suction caisson anchoring; four legged jackets on pin piles or suction caisson anchoring and their associated foundations)"	<b>Details of Licensed Marine Activities</b>  <i>(b) up to one meteorological <a href="#">mast</a> fixed to the seabed within the area shown on the works plan by an associated foundation (namely one or more of the following: monopoles, three legged jackets on either pin piles or suction caisson anchoring; four legged jackets on pin piles or suction caisson anchoring and their associated foundations)</i>	2
11.	Schedule 11, Part 4 (6) (6), (6) (8), (7)(1), (7)(3)	In their relevant representation, the MMO noted that: "The MMO recommends the condition wording is amended from "authorised project" to "licensed activities", as "authorised project" in DCO interpretation in the DCO includes onshore activities."	<b>Notifications and Inspections</b>  <i>(6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the <a href="#">licensed activities</a> or any part of them, and within five days of completion of the licensed activities</i>	2
12.	Schedule 11, Part 4 (6)(7)(a)	In their relevant representation, the MMO noted that: "The MMO recommends "two weeks" is changed to "10 days" for consistency with Schedule 12 condition 5(7)(a)."	<b>Notifications and Inspections</b>  <i>(7) The Kingfisher Information Service of Selfish, must be informed of details of the vessel routes, timings and locations relating to the construction of the authorised project or any part thereof by email to <a href="mailto:kingfisher@seafish.co.uk">kingfisher@seafish.co.uk</a>: —</i>	2

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			(a) at least <b>ten</b> days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data;	
13.	Schedule 11, Part 4 (7) (2) Schedule 12, Part 4 (6) (2)	In their relevant representation, the MMO noted that: “This states ‘start of construction’. The MMO requires a definition for the start of construction.”	In order to ensure consistency, the wording of Schedule 11, Part 4, Condition 7(2) has been amended to "commencement of construction", as used throughout the draft order.  <i>The undertaker must during the period from the commencement of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—</i>	2
14.	Schedule 11, Part 4 (7) (3)	In their relevant representation, the MMO noted that: “The MMO queries whether the cross reference to the aids to navigation plan should be 12(1)(j), not 12(1)(i) as stated.”	<b>Aids to Navigation</b>  <i>(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 12(1)(j) using the reporting system provided by Trinity House.</i>	2
15.	Schedule 11, Part 4 (10)(2) Schedule 12, Part (8)(2)	In their relevant representation, the MMO noted that: “The MMO believes the Environment Agency Pollution Prevention Control Guidelines have been withdrawn and reference should be removed from the condition.”	The reference to the Environment Agency Pollution Prevention Control Guidelines has been removed in Schedule 11 and Schedule 12.	2
16.	Schedule 11, Part 4 (12)(1)(a) and (j)	In their relevant representation, the MMO noted that: “The MMO requires “agreed in writing” to be changed to “approved	<b>Pre-construction plans and documentation</b>  <i>(a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed</i>	2

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	Schedule 12, Part 4 (10)(1)(a) and (k)	in writing by”	<p>representation on the most suitably scaled admiralty chart, to be <b>approved</b> in writing <b>by</b> the MMO in consultation with Trinity House and the MCA which shows-</p> <p>(j) An aids to navigation management plan to be <b>approved</b> in writing <b>by</b> the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 7 for the lifetime of the authorised scheme.</p>	
17.	Schedule 11, Part 4 (12)(1)(b)(iv) Schedule 12, Part 4 (10)(1)(c)(iv)	In their relevant representation, the MMO noted that: “The MMO queries the cross reference to paragraph 3(1) of Part 1 (Licensed marine activities) and believes this should be Part 3 paragraph 1. In addition “(licenced marine activities” should read “licensed activities”.”	<p>At Schedule 11 –</p> <p>(iv) an indicative written construction programme for all wind turbine generators, offshore substation, meteorological mast, buoys and cables comprised in the works at <b>paragraph 1 of Part 3</b> (licenced <del>marine</del> activities) of this Schedule (insofar as not shown in paragraph (ii) above);</p> <p>At Schedule 12 –</p> <p>(iv)an indicative written construction programme for the offshore substations and cables comprised in the works at <b>paragraph 3(1) to (3) of Part 3</b> (licensed <del>marine</del> activities) of this Schedule (insofar as not shown in paragraph (ii) above);</p>	2
18.	Schedule 11, Part 4 (12)(10)(j)	In their relevant representation, the MMO noted that: “The MMO queries whether the cross reference to Aids to Navigation condition 8 should be condition 7.”	<p><b>Pre-construction plans and documentation</b></p> <p>(j) An aids to navigation management plan to be approved in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition <b>7</b> for the lifetime of the authorised scheme.</p>	2

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19.	Schedule 11, Part 4 (14)	In their relevant representation, the MMO noted that: "14(2) and 14(3) cross reference to condition 13, the MMO considers condition 12 should also be cross referenced."	<i>(2) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under conditions <u>12 and 13</u>.</i>  <i>(3) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under conditions <u>12 and 13</u>, unless otherwise agreed in writing by the MMO.</i>	2
20.	Schedule 11, Part 4 (15)(2)(a) Schedule 12, Part 4 (13)(2)(a)	In their relevant representation, the MMO noted that: "The wording "agreed with the MMO" should be amended to "agreed by MMO". The MMO also considers the word "habitat" should be deleted."	<b>Pre-construction monitoring and surveys</b> <i>(2) The pre-construction surveys referred to in sub-paragraph (1) to be undertaken, unless otherwise agreed <u>by</u> the MMO, are—</i>  <i>(a) appropriate surveys to determine the location and extent of any <u>habitat</u> biogenic reef features (<i>Sabellaria spinulosa</i>) inside the area(s) within the Order limits in which it is proposed to carry out construction works, as provided for in the biogenic reef mitigation plan;</i>	2
21.	Schedule 11, Part 4 (15)(3)	In their relevant representation, the MMO noted that: "The condition states: "The undertaker must carry out the surveys agreed under sub- paragraph (2) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable". The wording of the equivalent condition in Schedule 12 (13(3) - page 118) cross references to sub-paragraph (1). The MMO recommends both DMLs include reference to sub-paragraph (1)."	<b>Pre-construction monitoring and surveys</b> <i>(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation bodies.</i>	2
22.	Schedule 12, Part 1 (1)	In their relevant representation, the MMO noted that: "Definition of "wind turbine generator" Any reference to generating	All references to generating assets have been removed from Schedule 12 where relevant.	2



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		assets not licensed under the export cable DML should be removed from Schedule 12.”		
23.	Schedule 12, Part 1 (4)(b)	In their relevant representation, the MMO noted that: “The contact details for the MMO (local office) is: Marine Management Organisation Fish Market Rock-a-Nore Road Hastings East Sussex TN34 3DW Tel: 01424 424 10”	<i>(b) Marine Management Organisation (local office)</i>  <i><u>Fish Market</u></i>  <i><u>Rock-a-Nore Road</u></i>  <i><u>Hastings</u></i>  <i><u>East Sussex</u></i>  <i><u>TN34 3DW</u></i>  <i><u>Tel: 0142442410</u></i>	2
24.	Schedule 12, Part 3 (1)(a)	In their relevant representation, the MMO noted that: “1(a) refers to “the deposit at sea of the substances and articles specified in sub-paragraph(7) below.” The MMO queries whether this is the correct reference to sub-paragraph (7).”	<b><i>Details of licensed marine activities</i></b>  <i>1. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act—</i>  <i>(a) the deposit at sea of the substances and articles specified in <u>paragraph 5 of Part 2 of this licence</u>;</i>	2
25.	Schedule 12, Part 3 (2)(6)(d)	In their relevant representation, the MMO noted that: “Typographical error “bouys” should read “buoys”.”	<b><i>Details of licensed marine activities</i></b>  <i>(d) marking <u>buoys</u>, beacons, fenders and other navigational warning or ship impact protection works</i>	2
26.	Schedule 12,	In their relevant representation, the MMO noted that:	The MMO’s interpretation is correct. The wording of Schedule 12, Part 3 (6)(e) has	2

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	Part 3 (3)(6)(e)	"The MMO seeks confirmation whether "temporary works for the benefit or protection of land or structures affected" is referring to works only below MHWS i.e. cofferdams."	been amended to make this clearer: <i>(e) temporary works <b>below MHWS</b> for the benefit or protection of land or structures affected by the authorised development;</i>	
27.	Schedule 12, Part 4 (18)	In their relevant representation, the MMO noted that: "The MMO recommends that a condition is included to secure the cable exclusion zone restriction."	<b>Cable exclusion zone</b> <i>18. (1) No cable installation or cable protection works may take place within the cable exclusion zone as demarcated on the offshore works plan. (2) The grid coordinates for cable exclusion zone are specified below—</i>	2
28.			At Deadline 2, the grid references for the cable exclusion zone were added to this condition.	3
29.	Schedule 12, Part 4 (8)(8)	In their relevant representation, the MMO noted that: "This condition cross references to the survey agreed under condition 10(j). The MMO seeks clarity on the correct reference as 10(j) relates to the offshore operations and maintenance plan."	<b>Chemicals, drilling and debris</b> <i>(8) The undertaker must undertake the survey agreed under <b>condition 10(i)(iii)</b> following the swath-bathymetry survey referred to in <b>condition 13(2)(c)</b>. Should any such obstructions resulting from burial of Work No. 3 (export cables) be identified which, in the reasonable opinion of the MMO, may be considered to interfere with fishing, the undertaker must take such steps to remove them as the MMO in its reasonable opinion may require.</i>	2
30.	Schedule 12, Part 4	In their relevant representation, the MMO noted that: "The MMO queries whether the cross reference should be to 1(i)(iv)	<b>Pre-construction plans and documentation</b> <i>(v) the proposed layout of the offshore</i>	2

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	(10)(1)(b)(v)	as there is no 1(j)(iv) as currently worded."	<i>substations including any exclusion zones identified under sub-paragraph (1)(i)(iv);</i>	
31.	Schedule 12, Part 4 (10)(10)(c)(iii)	In their relevant representation, the MMO noted that: "The MMO queries what the cross reference should be as there is no condition 9(1)(i)."	<b>Pre-construction plans and documentation</b> <i>(iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with sub-paragraph 9(1)(i) and conditions 13, 14 and 15;</i>	2
32.	Schedule 12, Part 4 (10)(1)(c)(iv)	In their relevant representation, the MMO noted that: "The MMO believes the condition should cross reference to 'Part 3 (licensed marine activities)', not 'Part 1'."	<b>Pre-construction plans and documentation</b> <i>(iv) an indicative written construction programme for the offshore substations and cables comprised in the works at paragraph 3(1) to (3) of Part 3 (licensed activities) of this Schedule (insofar as not shown in paragraph (ii) above);</i>	2
33.	Schedule 12, Part 4 (12)	In their relevant representation, the MMO noted that: "This condition cross references to condition 10 and should include condition 10 and 11."	<b>Pre-construction plans and documentation</b> <i>12. (1) Each programme, statement, plan, protocol or scheme required to be approved under conditions 10 and 11 must be 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.</i> <i>(2) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under conditions 10 and 11.</i>	2

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34.	Schedule 11, Part 4 (21) Schedule 12, Part 4 (21)	In their relevant representation, the MMO noted that: “The MMO recommends the inclusion of the following conditions in relation to disposal activities: - ‘The licence holder must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site (reference to be provided).’ To ensure that the disposal sites are closed in line with OSPAR recording requirements. - ‘Any man-made material must be separated from the dredged material and disposed of on land.’ to ensure that no man-made material is disposed to sea.”	<b><u>Dredge disposal</u></b>  <b><u>—(2) The licence holder must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site (reference to be provided).</u></b>  <b><u>Any man-made material must be separated from the dredged material and disposed of on land, where reasonably practical.</u></b>  The disposal site reference will be inserted when it has been provided to the Applicant by the MMO.	2
35.	Schedule 11, Part 1 (1)	In their relevant representation, the MMO noted that: “[Schedule 11, Part 1] should say “authorised scheme” means Work No. 1 and 2 described in Part 2, paragraph 3 of this licence or any part of that work; In addition “authorised scheme” includes Works No. 2 which is for Offshore Substation.”	<b><i>“authorised scheme” means Works No. 1 and 2 described in Part 2, paragraph 3 of this licence or any part of that work</i></b>	2
36.	Schedule 11, Part 4 (3) (3)	In their relevant representation, the MMO noted that: “The total length of cable protection includes Work No. 1 (inter-array) and Work No. 1 (export cable). The export cables are listed as Work No. 3, No 3A and No. 4A and should be removed from Schedule 11.”	The reference to export cables has been removed from Schedule 11.	2
37.	Schedule 11, Part 4 (3) (1)	In their relevant representation, the MMO noted that: “The maximum diameter should also include the Met Mast.	<b><i>(3) In relation to a wind turbine generator or a meteorological mast each monopile foundation forming part of the authorised development must not have a diameter which is more than 10 metres.</i></b>	2
38.	Schedule 12,	In their relevant representation, the MMO noted that:	<b><i>(i) A written scheme of archaeological investigation in relation to the offshore Order</i></b>	2

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	Part 4 (10)(1)(i)	"The MMO suggests the deletion of "mean low water" as the Written Scheme of Investigation (WSI) will also need to cover the intertidal area for licensable activities undertaken under work number 3A."	<i>limits <del>seaward of mean low water</del>, which must be submitted prior to commencement of the licensed activities and must accord with the offshore archaeological written scheme of investigation and industry good practice, in consultation with the statutory historic body to include -</i>	
39.	Schedule 12, Part 4 (7)	In their relevant representation, the MMO noted that: "The MMO requests the insertion of the following new paragraph: "(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035)."	<b><u>Aids to Navigation</u></b>  <i><u>(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must paint the remainder of the structures (not painted yellow in accordance with <b>condition 7</b>) submarine grey (colour code RAL 7035).</u></i>	2
40.	Schedule 12, Part 4	In their relevant representation, the MMO noted that: "The MMO queries whether condition 9 (Aviation Safety) on Schedule 11 should also be included in Schedule 12, to the extent that it applies to the construction of the OSS."	<b><u>Aviation safety</u></b>  <i><u>The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the authorised scheme, in writing of the following information—</u></i>  <i><u>the date of the commencement of construction of the authorised scheme;</u></i>  <i><u>the date any wind turbine generators are brought into use;</u></i>  <i><u>the maximum height of any construction equipment to be used;</u></i>  <i><u>the maximum heights of any wind turbine generator, mast and platform to be constructed;</u></i>  <i><u>the latitude and longitude of each wind turbine</u></i>	2

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			<p><u>generator, mast and platform to be constructed,</u></p> <p><u>and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised scheme.</u></p> <p><u>Copies of notifications must be provided to the MMO.</u></p>	
41.	Article 38	In their relevant representation, the MMO noted that: “The MMO requests that Works no 2 is also included in this article.”	<p><b>Abatement of works abandoned or decayed</b></p> <p>38. Where Work No. 1(a) to (d) <u>and Work No. 2</u> or any part of those works is abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense to repair and restore or remove Work No. 1(a) to (d) <u>and Work No. 2</u> or any relevant part of those works, without prejudice to any notice served under section 105(2) of the 2004 Act. The notice may also require the restoration of the site of the relevant part(s) of Work No. 1(a) to (d) <u>and Work No. 2</u> to a safe and proper condition within an area and to such an extent as may be specified in the notice.</p>	2
42.	Schedule 12, Part 1 (1)	In their relevant representation, the MMO noted that: “ <u>restricted area</u> ” means the area hatched black on the works plan being 250 metres from site 30”. The works plan document reference 2.5 Thanet Extension Offshore Wind Farm Works Plan (Offshore) does not appear to contain an area hatched black or reference to site 30. The MMO seeks clarification on this.”	'Restricted area' is a superfluous defined term which has now been removed from Schedule 12.	2

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43.	Schedule 11, Part 4 (3)(1)	In their relevant representation, Natural England noted that: “The export cables are licenced under Schedule 12 and should not be included here.”	Reference to the export cables has been removed from this condition.	2
44.	Schedule 12, Part 4 (18)	In their relevant representation, Natural England noted that: “The cable exclusion zone detailed in the ES project description figure 1.2 should be captured with a condition within Schedule 12 the transmission DML. This exclusion zone is an important mitigation for both ecological and navigational concerns and should be appropriately secured within any consent given.”	<b>Cable exclusion zone</b> <i>18. (1) No cable installation or cable protection works may take place within the cable exclusion zone as identified in the offshore works plan.</i> <i>(2) The grid coordinates for cable exclusion zone are specified below—</i>	2
45.		In their relevant representation, Natural England noted that: “Figure 1.1 and 1.2 of the ES project description demonstrate a Cable exclusion zone within the export cable corridor. This exclusion is due to both environmental and navigational concerns. In order to ensure this key mitigation occurs it should be secured through condition in this schedule.”		
46.			At Deadline 2, the grid references for the cable exclusion zone were added to this condition.	
47.	Schedule 11, Part 4 (10)(7)	In their relevant representation, Natural England noted that: “While Natural England acknowledges that this is standard wording we would like to request a change to add in the additional wording: ‘where reasonably practicable any rock material used will be similar to material naturally present in the location’. Natural England acknowledges that it is not always possible to use material that would naturally occur in the location of any deposited hard substrate. However, the use of similar materials minimises the impact on the environment and should be undertaken where reasonably practicable.”	<b>Chemicals, drilling and debris</b> <i>(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it. <u>Where reasonably practicable any rock material used will be similar to material naturally present in the location.</u></i>	2

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48.	Schedule 11, Part 4 (13)	In their relevant representation, Natural England noted that: “This condition requires all archaeological reports to be agreed with the statutory historic body. Could a similar condition be added under condition 12 (1) (b) requiring all ecological reports to be agreed with the statutory nature conservation body?”	The Applicant has noted this inconsistency and has amended Schedule 11, Part 4, Condition 13(2) and Schedule 12, Part 4, Condition 11(2) to require archaeological reports to be agreed by the MMO in consultation with all relevant statutory bodies:  <i>Any archaeological reports produced in accordance with <b>condition 12</b> are to be agreed with <u>the MMO, in consultation with the relevant statutory historic bodies.</u></i>  This is more consistent with the standard practice that the MMO will consult with the relevant statutory bodies when reviewing archaeological and ecological reports. Ultimately the MMO must sign off on such plans.	2
49.	Schedule 12, Part 4 (10)(1)(b)(v)	In their relevant representation, Natural England noted that: “Condition 10 (1) (b) (v) cross references to 1 (j) (iv) however there is no 1 (j) (iv). Natural England assumes this should have been 1 (i) (iv).”	<b><i>Pre-construction plan and documentation</i></b>  <i>(v) the proposed layout of the offshore substations including any exclusion zones identified under sub-paragraph (1)(i)(iv);</i>	2
50.	Throughout	In their relevant representation, MMO noted that: “...the total figures for cable protection, scour protection and disposal volumes do not match across the ES, the DMLs and Schedule 1 of the DCO. The MMO requests that these volumes and figures for maximum parameters are provided in a clear table to allow for accurate consideration of the potential impacts of these elements of the proposed development, and requests that this level of clarity is reflected in the maximum parameters set out in the DMLs.”	The figures for cable protection, scour protection and disposal volumes have been updated throughout the DCO and the DMLs to align with <u>Annex B to Appendix 1: Clarification Note – Project Description Transcription into the Application</u> , submitted at Deadline 1.	2
51.	Schedule 11, Part 4 (12)(1)(a)	In their relevant representation, Natural England noted that: “Natural England would also like to be named as a consultee on this	<b><i>Pre-construction plan and documentation</i></b>  <i>(a) A design plan at a scale of between</i>	2



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	Schedule 12, Part 4 (10)(1)(b)	design plan. This is especially important noting that this plan outlines the exclusion zone for biogenic reef.”	1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be approved in writing by the MMO in consultation with Trinity House, <del>and</del> the MCA <u>and Natural England</u> which shows—	
52.	Part 1, Interpretation Schedule 11, Part 1, Interpretation Schedule 12, Part 1, Interpretation	In their relevant representation, Natural England noted that: “The definition of commence in both the DCO and DMLs is not acceptable. The works detailed include seabed preparation and clearance as not part of commencement. Works such as seabed preparation and clearance could have significant impacts and need to be incorporated in pre-construction plans and documentation. This is to ensure appropriate mitigation is included and that monitoring efforts are not impacted by works outside of the sign off process. Until the pre-construction documents are signed off and all pre-construction monitoring has been conducted these works should not be allowed to be conducted. Therefore, Natural England, requests the definition of commence must be changed to ensure seabed preparation and clearance are part of offshore commencement.”	The definition of "pre-commencement works" has been updated in the revised draft Order and both DMLs:  “pre-commencement works” means archaeological investigations, remedial work in respect of any contamination or other adverse ground conditions, the erection of any temporary fencing or temporary means of enclosure <u>and seabed preparation and clearance</u> ;  The following condition has been added to both DMLs:  <b><u>Seabed preparation and clearance</u></b>	2
53.		In their relevant representation, the MMO noted that: “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) clearance and other works. The DML will need to define UXO works if being consented (see comment 1.73) The MMO considers that offshore preparation works must be included in the interpretation of ‘commence’. This would allow for appropriate consultation and formal consideration of such works and their potential impacts on marine protected areas and habitats. Exclusion of these works from	<b><u>20. Pre-commencement works relating to seabed preparation and clearance must only take place in accordance with a method statement submitted to and approved by the MMO, 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></b>	2

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
		the definition of 'commence' would allow the developer to undertake sandwave levelling, boulder relocation and other activities prior to the agreement of any required mitigation, sufficient consideration and consultation upon construction methods and monitoring plans and prior to the requirement to perform any necessary pre-construction monitoring surveys."		
54.		In their relevant representation, the MMO noted that: "The MMO recommends the wording of 'principal contractors' is changed to 'agents and contractors' for consistency with Schedule 11."	The Applicant has included the following definition of 'principal contractor' in Schedule 11 and Schedule 12 of the revised Order:  <i>"principal contractors" has the same meaning as in section 2 of the Construction (Design and Management) Regulation 2015;</i>	2
55.	Schedule 12, Part 4(19)	Whilst conducting further reviews of the Order, it was noticed that the 'Fisheries liaison and coexistence plan' condition in Schedule 12 included an incorrect cross reference.	<i>19. The undertaker must comply with the fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to <b>condition 6-5</b> and to address the interaction of the licensed activities with fishing activities.</i>	2
56.	Schedule 10, Part 2 (3)	At a meeting on Wednesday 9 <sup>th</sup> January 2019, Dover District Council asked that Schedule 10 (Procedure for Discharge of Requirements), Part 2 (3) be amended to allow for additional time for the discharging authority to issue a consultation to the requirement consultee.	<i>(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue the consultation to the requirement consultee within <del>43</del> business days of receipt of the application, and must notify the undertaker in writing specifying any further information requested by the requirement consultee within <del>43</del> business days of receipt of such a request and in any event within <del>248</del> days of</i>	2

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
			<i>receipt of the application.</i>	
57.	Schedule 4	At a meeting on Wednesday 9 <sup>th</sup> January 2019, Dover District Council asked that Schedule 4 (Access to Works) be updated to reflect the fact that four of the access included are in the District of Dover, rather than the District of Thanet.	<p><i>District of <del>Thanet</del> Dover</i>      <i>Vehicular access from SANDWICH ROAD to the south marked at point D on the access to works plan</i></p> <p><i>District of <del>Thanet</del> Dover</i>      <i>Vehicular access from the A256 to the east marked at point E on the access to works plan</i></p> <p><i>District of <del>Thanet</del> Dover</i>      <i>Vehicular access from the A256 to the east marked at point F on the access to works plan</i></p> <p><i>District of <del>Thanet</del> Dover</i>      <i>Vehicular access from the A256 to the west marked at point G on the access to works plan</i></p>	2
58.	Article 35  Schedule 1, Part 3, Requirement 22	An onshore archaeological draft written scheme of investigation was submitted by the Applicant as Appendix 4 to the submission for Deadline 1.	<p><b>Article 35</b> (<i>Certification of plans etc.</i>) has been updated to include the onshore archaeological draft written scheme of investigation as a certified plan.</p> <p><b>Archaeological written scheme of investigation</b></p> <p>22.—(1) <i>No stage of the connection works may commence until for that stage a written scheme of archaeological investigation (<u>which accords with the onshore archaeological draft written scheme of investigation</u>) has, after consultation with Historic England and Kent County Council, been submitted to and</i></p>	2

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
			approved by the relevant planning authority.	
<b>Deadline 2 Changes</b>				
59.	Schedule 1, Part 1, Authorised Development	The decision was taken at Deadline 2 to remove landfall Option 2 from the Project envelope. Subsequently, the optionality within Work Nos. 3B, 4 and 4B has been reduced and, as there will be no above ground infrastructure, reference to the dimensions of a berm have been removed throughout the draft Order.	<p><b>Work No. 3B</b></p> <p>(a) <i>In the event that the <del>transition joint bays are located below ground within Pegwell Bay County Park (Work No. 4A) and</del> export cables are required to cross the seawall by horizontal directional drilling, onshore connection works, including up to four export cables and fibre optic cables to export electricity and transmit electronic communications from the offshore substation or wind farm array to the shore; and</i></p> <p><del>(b) In the event that the transition joint bays are surface laid at Pegwell Bay County Park (Work No. 4A), and cross the seawall by trenching, onshore connection works consisting of:</del></p> <p><del>up to 4 export cables and fibre optic cables to export electricity and transmit electronic communications from the offshore substation or wind farm array to the shore;</del></p> <p><del>a temporary cofferdam to facilitate the extension of the sea wall and installation of cables through the sea wall; and</del></p> <p><del>following the undertaking of the work listed at Work No. 3B(b)(i), an extension of the sea wall of up to 18.5</del></p>	3

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			<p><del>metres seaward from the existing alignment and up to 155 metres long and subsequent reinstatement of the sea wall.</del></p> <p>(b) In the event that <del>the transition joint bays are located below ground at Pegwell Bay Country Park (Work No. 4A), and the export cables</del> cross the seawall by trenching, onshore connection works consisting of:</p> <p>up to four export cables and fibre optic cables to export electricity and transmit electronic communications from the offshore substation or wind farm array to the shore;</p> <p>a temporary cofferdam to facilitate the installation of cables through the sea wall; and</p> <p>partial demolition of the sea wall and subsequent reinstatement of the sea wall on its existing alignment.</p> <p><b>Work No. 4</b> – Onshore connection works within Pegwell Bay Country Park consisting of up to four cable circuits and communications cables laid <del>either underground or surface laid within an artificial berm</del> from Work No. 3A to Work No. 5 running in a south westerly direction including a temporary works area.</p> <p><b>Work No. 4A</b> – Four subsea export cables and fibre optic cables connecting to up to four transition joint bays <del>(above or below ground)</del> <u>located below ground</u> to facilitate onshore connection works within Pegwell Bay Country</p>	

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
			<i>Park.</i>	
60.	Schedule 1, Part 3(9)		<p><b>9. Detailed design parameters onshore</b></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>(2) <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>(3) <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><del>(4) The artificial berm associated with the Pegwell Bay connection works comprised in Work No. 4 must not exceed —</del></p> <p><del>(a) A height of 1.2 metres above existing ground level for the cables.</del></p> <p><del>(b) A height of 2.3 metres for the TJBs.</del></p>	3
61.	Schedule 1, Part 3(10)		<p><b>10. Landfall works notification</b></p> <p><i>No part of Work No. 3B may commence until written notification is provided to the relevant planning authority confirming which one option of Work No. 3B(a), or 3B(b) <del>or 3B(c)</del> will be constructed. The method statement must include the anticipated timing of the</i></p>	

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			<i>proposed works being undertaken.</i>	
62.	Schedule 5, Land in which only New Rights etc., may be acquired		All rights relating to the construction of the berm have been removed from Schedule 5.	3
63.			<u><i>Right 1 – Sea wall installation – Plots 01/10 and 01/11</i></u> has been added to Schedule 5 to specify the new rights required over these plots, as they are no longer sought to be taken freehold.	3
64.	Schedule 7, Land of which Temporary Possession may be taken		Plots have been added to the first row of Schedule 7 to reflect the addition of Plots 01/10 and 01/11 to Schedule 5. Now that these plots are not sought to be taken freehold, they are included for temporary possession in line with the strategy set out in the Statement of Reasons.  Some additional minor amendments have been made to Schedule 7 to reflect changes made at Deadlines 1 and 2.	3
65.	Schedule 11, Part 4 (12)(k) Schedule 12, Part 4 (10)(l)	In their written representation at Deadline 1, Natural England noted that following the BEIS Review of Consent, it was their position that a site integrity plan should be included within all DCOs (in relation to HRA and in combination impacts on the Southern North Sea SCI for harbour porpoise).	<b><i>Pre-construction plans and documentation</i></b>  <u><i>A site integrity plan, which must be approved in writing by the MMO prior to the commencement of operation of the licensed activities and which must accord with the outline site integrity plan (as certified in accordance with article 35).</i></u>	3
66.	Throughout	In their written representation at Deadline 1, Historic England noted that:  " All references to the Outline Written Scheme of Investigation (WSI)	Wording has been added throughout the revised draft Order to clarify whether reference is being made to an onshore or	3

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		should define whether they are in reference to onshore or offshore WSI."	offshore WSI.	
67.	Schedule 11, Part 1, Interpretation Schedule 12, Part 1, Interpretation	In their written representation at Deadline 1, Historic England noted that:  "The definition of "statutory historic body" as listed within Schedule 11, Part 1, Section 1, paragraph 1 and Schedule 12, Part 1, Section 1, paragraph 1 is given as 'Historic England or its successor in function'. This should be amended to the 'Historic Building and Monuments Commission for England' to avoid confusion."	<i>"statutory historic body" means <del>Historic England or its successor in function</del> <u>the Historic Building and Monuments Commission for England</u>;</i>	3
68.	Schedule 11, Part 1 (4)(h) Schedule 12, Part 1 (4)(h)	In their written representation at Deadline 1, Historic England noted that:  "As of the 1st April 2019 the Historic England office to contact will be: 4th Floor, Cannon Bridge House, 25 Dowgate Hill, London, EC4R 2YA, 020 7973 3700."	The contact address for Historic England has been updated.	3
69.	Schedule 11, Part 4 (12)(g)(ix) Schedule 12, Part 4 (10)(i)(x)	In their written representation at Deadline 1, Historic England noted that:  Additionally to form a consistent approach to the onshore and offshore WSI's function we request that the following is included within Section 10(1)(i) of Part 2 of Schedules 11 and 12: "In the event that site investigation is required, the scheme must include details of an assessment of significance and research questions".	<b><i>Pre-construction plans and documentation</i></b>  <i>(i) An <u>offshore</u> written scheme of archaeological investigation in relation to the offshore Order limits, which must be submitted prior to commencement of the licensed activities and must accord with the offshore archaeological written scheme of investigation and industry good practice, in consultation with the statutory historic body to include—</i>  <i><u>(x) in the event that site investigation is required, details of an assessment of the significance and research questions.</u></i>	3



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70.	Schedule 10 (3)(2)(d)	<p>In their Local Impact Report submitted at Deadline 1, Dover District Council noted that:</p> <p>"...in respect of Appeals, 3, (2), (d) – a requirement to submit written representations to an appointed person within 10 business days of the date on which the appeal parties are notified is a very limited period to coordinate a response. The standard appeal process would normally be six weeks."</p> <p>The Applicant acknowledged the concern raised by DDC and has extended the period to 20 business days. It is important to note that prior to the appointment of any expert the discharging authority will be sent the appeal papers in advance of that 10 day appointment period. By allowing a further 10 business days on receipt the discharging authority will be afforded the six weeks request.</p>	<p><b>Appeals</b></p> <p><i>(d) the discharging authority and the requirement consultee (if applicable) must submit written representations to the appointed person in respect of the appeal within <del>420</del> business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person; and</i></p>	3
71.	Part 4 (16) (2)	<p>In their written representation, Trinity House noted that:</p> <p>"...the Article does not appear to define as to what stage of the development process the undertaker is required / able to submit such a plan."</p>	<p><b>Public rights of navigation</b></p> <p><i>—(1) Subject to paragraph (2), the rights of navigation over the places in the sea where any of the permanent structures (wind turbine generators, meteorological mast or offshore substations, including their foundations) are located within territorial waters will be extinguished.</i></p> <p><i>(2) The extinguishment of the rights of navigation over the places identified in paragraph (1) will take effect 14 days after the undertaker has submitted a plan to the Secretary of State, Trinity House, the MCA and the MMO showing the precise locations of the foundations of each of any relevant wind turbine generators, meteorological mast, and offshore substations to be constructed as part of the authorised project within territorial waters.</i></p> <p><i>(3) The plan submitted in accordance with</i></p>	3

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
			<u>paragraph (2) will be submitted to the Secretary of State, Trinity House, the MCA and the MMO prior to the commencement of construction of any individual wind turbine generator, meteorological mast or offshore substation.</u>	
<b>Deadline Three</b>				
72.	Schedule 11, Part 4 (6)(7)(a) Schedule 12, Part 4 (5)(7)(a)	In their submission at Deadline 2, the MMO asked for the working of this sub condition to be amended to "ten working days" as the bulletin referred to is published fortnightly.	(a) at least ten <u>working</u> days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and	4
73.	Schedule 11, Part 4 (12)(h) Schedule 11, Part 4 (10)(i)	In their submission at Deadline 2, the MMO asked for clarity that this sub condition referred to offshore Order limits seaward of mean high water springs. The Applicant agreed with this representation with regards Schedule 11, and has amended the wording accordingly. The Applicant maintains that the wording within the same sub condition in Schedule 12 is correct, as this needs to encompass the intertidal area.	(h) An offshore written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean <u>low water-high water springs</u> , which must be submitted prior to commencement of the licensed activities and must accord with the offshore archaeological written scheme of investigation and industry good practice, in consultation with the statutory historic body to include—	4
74.	Schedule 1, Part 1 – Authorised Development (Further works) Schedule 11 and Schedule 12 Part 3 – Details of licensed marine activities	At ISH7, a request was made on behalf of Ramac Holdings Ltd that the wording at Schedule 1 Part 1 be amended to clarify that where 'further associated development' is to be authorised, it must not give rise to any materially new or materially different environmental effects from those assessed within the environmental statement. The Applicant has amended this wording here and throughout the DCO.	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</u>	4

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			<i>including:</i>	
75.	Schedule 1, Part 1 – Authorised Development (Further works)(c)	In the "ISH7: Hearing Action Points" document published by the Planning Inspectorate on 25 February 2019, the Panel asked the Applicant to ensure all maximum design parameters are captured within a single location within the Order to avoid potential discrepancies. The Applicant has removed the parameters from Schedule 1, Part 1- Authorised Development and within the Order all parameters are now confined to Requirement 2 – Detailed offshore design parameters and Requirement 9 – Detailed design parameters onshore.	<i>(c) the removal of material from the seabed required for the construction of Work Nos. 1 to 3B and the disposal of up to 1,728,000 cubic metres of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits;</i>	4
76.	Requirement 22	At ISH7, the MMO requested that the title of this Requirement be made clearer.	<b><i>Onshore archaeological written scheme of investigation</i></b>	4
77.	Article 35 Schedule 13	In the "ISH7: Hearing Action Points" document published by the Planning Inspectorate on 25 February 2019, the Panel asked the Applicant to consider drafting a Schedule detailing plans to be certified. The Applicant has done so at Schedule 13 and has amended Article 35 accordingly.	<i>35.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the following documents listed in Schedule 12 (Documents to be certified) for certification that they are true copies of the documents referred to in this Order. —</i>	4
78.	Article 16	In the "ISH7: Hearing Action Points" document published by the Planning Inspectorate on 25 February 2019, the Panel asked the Applicant to consider amending the wording of 16(3) to ensure that it not inadvertently give rise for the possibility of individual plans being for each structure.	<b><i>Public rights of navigation</i></b> <i>16.—(1) Subject to paragraph (2), the rights of navigation over the places in the sea where any of the permanent structures (wind turbine generators, meteorological mast or offshore substations, including their foundations) are located within territorial waters will be extinguished.</i>	4
79.		At ISH7, Trinity House requested that this Article be amended to clarify the time frame for the submission of plans ahead of the extinguishment of rights, and to clarify that they would receive advanced notification.	<i>(2) The extinguishment of the rights of navigation over the places identified in paragraph (1) will take effect 14 days after the</i>	

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			<p><i>undertaker has submitted a plan to the Secretary of State, Trinity House, the MCA and the MMO showing the precise locations of the foundations of each of any relevant wind turbine generators, meteorological mast, and offshore substations to be constructed as part of the authorised project within territorial waters.</i></p> <p><i>(3) The plan submitted in accordance with paragraph (2) will be submitted to the Secretary of State, Trinity House, the MCA and the MMO <b>eight weeks</b> prior to the commencement of construction of <b>the first</b> individual wind turbine generator, meteorological mast or offshore substation.</i></p> <p><i><b>(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.</b></i></p>	
80.	Article 35 Schedule 13	In their submission at Deadline 2, and at ISH7, the MMO asked that additional design parameters be included on the face of the DMLs. The Applicant has agreed with the MMO to include the environmental statement as a certified document within Schedule 13. The environmental statement contains all relevant design parameters.	The environmental statement is now listed in Schedule 13.	4
81.	Requirement 9	In the "ISH7: Hearing Action Points" document published by the Planning Inspectorate on 25 February 2019, the Panel asked the Applicant to include wording to require the approval of detailed design of the substation (Work No.13) by the local planning authority.	<p><b>Detailed design parameters onshore</b></p> <p><i>—(1) 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><i><b>(2) Construction works for the building referred to in paragraph (1) above must not</b></i></p>	4

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			<p><u>commence until details of the layout, scale and external appearance of the same (which accord with the outline landscape and ecological management plan) 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) Any details provided by the undertaker pursuant to paragraph (2) must accord with the design and access statement and be within the Order limits.</p> <p>(4) 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.</p>	
82.	Schedule 9 (7)	At ISH7, the MMO asked the Applicant to amend the Confidentiality clause within the Arbitration Schedule to allow them to comply with their duty to disclose information under the Freedom of Information Act 2000.	(2) <i>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>	4
83.	Schedule 11, Part 4 (12)(e)	In their submissions at Deadline 2, the MMO suggested additional wording to this sub condition, which the Applicant has accepted.	(e) <i>A scour and cable protection plan providing details of the need, type, sources, quantity and installation methods for scour protection and cable protection, which plan must be updated and resubmitted for approval if changes to it are proposed following cable laying operations. <u>No activities proposed in any updated scour and cable</u></i>	4

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			<u>protection plan may be undertaken until the updated plan has been approved by MMO.</u>	
84.	Schedule 11, Part 4 (18)(1)(b)  Schedule 11, Part 4 (16)(1)(b)	In their submissions at Deadline 2, the MMO suggested additional wording to this sub condition, which the Applicant has accepted.	<b>Reporting of impact pile driving</b>  <i>18.—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the UK Marine Noise Registry—</i>  <u>(b) every year by 25 March following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements for any pile driving activities undertaken in the previous calendar year at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements;</u>	4
85.	Schedule 12, Part 4 (15)(5)	In their submissions at Deadline 2, the MMO asked the Applicant to consider additional wording to secure the "the level of survey needed to confidently demonstrate recovery".  The Applicant understands from ongoing discussions with the MMO that this concern is in relation to biogenic reefs and has included additional drafting accordingly.	<b>Post construction</b>  <u>In the event that cable protection is installed within the Goodwin Sands rMCZ, the undertaker must conduct epifaunal monitoring and carry out ground-truthed geophysical surveys for a total period of three years.</u>	4
86.	Schedule 11 Part 3 (2)(5)(c)  Schedule 12 Part 3 (2)(6)(g)	In their submissions at Deadline 2, the MMO asked the Applicant to consider additional wording to clarify that "such other works" was not intended to include works relating to unexploded ordnances.	<u>(c) such other works as may be necessary or expedient (excluding any works relating to unexploded ordnances) for the purpose of or in connection with the construction or use of the authorised development and which would not give rise to any materially new or materially worse environmental effects from</u>	4

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			<i>those environmental statement.</i>	
87.	Schedule 11 Part 4 (13)(1) and (20) Schedule 12 Part 4 (11)(1) and (20)	In the "ISH7: Hearing Action Points" document published by the Planning Inspectorate on 25 February 2019, the Panel asked the Applicant to include wording within the pre-commencement conditions in the DMLs to clarify that all necessary surveys and documentation will be in place prior to the commencement of these works.	<p><b>Seabed preparation and clearance</b></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>(a) has been properly informed by any necessary surveys as are required; and</i></p> <p><i>(b) has been submitted to and approved by the MMO accompanied by all relevant documentation that may be required</i></p> <p><i>and 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 <b>article 35</b>).</i></p>	4
88.	Schedule 9	At ISH7, the Applicant agreed to have the Arbitration schedule reviewed by an international arbitration expert. In light of her review, the Applicant has made some amendments to the Schedule to improve clarity.	<p><b>Time periods</b></p> <p><i>2.—(1) All time periods in these Arbitration Rules <del>must</del> will be measured in days and this will include weekends, but not bank or public holidays.</i></p> <p><i>Time periods will be calculated from the day after the Arbitrator <del>is appointed which must be either (a) the date the Arbitrator notifies the parties in writing of their acceptance of an appointment by agreement of the parties. <del>or</del></del> (b) the date the Arbitrator is appointed by the Secretary of State.</i></p>	4

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89.	Requirement 29	In the "ISH7: Hearing Action Points" document published by the Planning Inspectorate on 25 February 2019, the Panel asked the Applicant to consider the inclusion in the order of an acceptable period for notification to the relevant LPA of commencement of works.	<p><b>Stages of authorised development onshore</b></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><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></p>	4
90.	Article 5	In the "ISH7: Hearing Action Points" document published by the Planning Inspectorate on 25 February 2019, the Panel asked the Applicant to review article 5 in light of outcomes the potential for future transfer to a SPV.	<p><b><u>Benefit of the Order</u></b></p> <p><i>(4) If the undertaker transfers any of all of the benefit of the provisions of this Order pursuant to paragraph (1), if such a transfer relates to any special purpose vehicle specifically created for the purpose of implementing and constructing the authorised development, 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:</i></p> <p><i>(a) a guarantee 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; or</i></p> <p><i>(b) an alternative form of security for that purpose which has been approved by the Secretary of State.</i></p> <p><i>(5) A 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</i></p>	4



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			<p><u>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) The guarantee or alternative form of security is to be in place for a maximum of 20 years from the date on which the relevant power is exercised.</u></p>	
<b>Deadline Four</b>				
91.	<p>Schedule 11, Part 4, Condition 12 (1)(d)</p> <p>Schedule 12, Part 4, Condition 10 (1)(e)</p>	In their submission at Deadline 3, the MMO asked the Applicant to include additional wording to clarify that the details of the appointed fisheries liaison officer will be included within the project environmental management plan.	<p><i>Pre-construction plans and documentation</i></p> <p><i>A project environmental management plan covering the period of construction and operation to include details of—</i></p> <p><i>(i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;</i></p> <p><u><i>(ii) the appointment and responsibilities of a fisheries liaison officer;</i></u></p> <p><i>(iii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance; and</i></p> <p><i>(iv) waste management and disposal arrangements.</i></p>	5

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
92.	Schedule 12, Part 4, Condition 13 (2)(b)	In their submission at Deadline 3, Natural England requested that the Applicant consider additional wording to clarify the pre-construction monitoring which will be carried out in relation to the Goodwin Sand rMCZ.	<p><b>Pre-construction monitoring and surveys</b></p> <p><i>(2) The pre-construction surveys referred to in sub-paragraph (1) to be undertaken, unless otherwise agreed by the MMO, are—</i></p> <p><i>(a) appropriate surveys to determine the location and extent of any biogenic reef features (Sabellaria spinulosa) inside the area(s) within the Order limits in which it is proposed to carry out construction works, as provided for in the biogenic reef mitigation plan;</i></p> <p><i><u>(b) In the event that certain works are carried out in the Goodwin Sands rMCZ—</u></i></p> <p><i><u>(i) ground truthing of the geophysical surveys carried out in accordance with sub-paragraph (2)(c), using drop down video and to be focussed on the areas where cable protection has been installed to monitor epifaunal communities and inundation by sand, in the event that cable protection is installed within the Goodwin Sands rMCZ;</u></i></p> <p><i><u>(ii) interpreted geophysical monitoring to monitor changes in sediment type, in the event that sandwave clearance is required within the Goodwin Sands rMCZ;</u></i></p> <p><i><u>(e) appropriate surveys to determine the location or presence of ringed plover inside the area(s) within the Order limits in which it is proposed to carry out construction works, which will inform the requirement for a ringed plover mitigation plan.</u></i></p>	5
93.	Schedule 12, Part 4, Condition 13 (2)(e)	As a result of the ongoing dialogue between Natural England and the Applicant, it was agreed that the Applicant would secure within the export cable DML a commitment to conduct surveys to determine the location of ringed plover, and to produce a ringed plover mitigation if ringed plover are found to be present within the Order limits. Ringed plover mitigation plan has been defined accordingly within Schedule 12.	<p><i><u>(ii) interpreted geophysical monitoring to monitor changes in sediment type, in the event that sandwave clearance is required within the Goodwin Sands rMCZ;</u></i></p> <p><i><u>(e) appropriate surveys to determine the location or presence of ringed plover inside the area(s) within the Order limits in which it is proposed to carry out construction works, which will inform the requirement for a ringed plover mitigation plan.</u></i></p>	5
94.	Schedule 12,		<b>Pre-construction plans and documentation</b>	5

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
	Part 4, Condition 10 (m)		<p>10.—(1) <i>The licensed activities or any part of those activities within Work No. 3A and 4B apart from horizontal directional drilling works and the temporary extension to the sea wall and the temporary cofferdam within Work No. 3B must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—</i></p> <p><i>(m) In the event that the surveys carried out in accordance with <b>condition 13(2)(e)</b> find that <u>ringed plover</u> are present within the Order limits, a <u>ringed plover mitigation plan</u>, the intention of which is to prevent disturbance to <u>ringed plover</u>, following current best practice as advised by the relevant statutory nature conservation bodies.</i></p>	
95.	Schedule 12, Part 1, Interpretation		<p><i>"ringed plover mitigation plan" means the mitigation plan document to be produced prior to construction, in accordance with the principles contained within the Onshore Biodiversity chapter of the Environmental Statement;</i></p>	5
96.	Article 33	The Applicant has amended this Article in line with the guidance contained within Section 22 of PINS Advice Note 15, which states that " <i>the Article within the DCO could be drafted to include powers for general removal of hedgerows (if they cannot be specifically identified) but this must be subject to the later consent of the local authority.</i> " The Applicant considers that the amended drafting is compliant with this guidance.	<p><b>Felling or lopping of trees and removal of hedgerows</b></p> <p>33.—(4) <i>Subject to the consent of the relevant local authority</i>, the undertaker may, for the purposes of the authorised project remove any hedgerows within the Order limits and remove the important hedgerows as are within the Order limits.</p>	5
97.	Article 36	In their submission at Deadline 3, Trinity House asked the Applicant to consider additional wording within Article 36 (Arbitration) to clarify that this Article is not intended to overrule Trinity House's saving	<p><b>Arbitration</b></p> <p>36. <i>Subject to Article 41 (Saving provisions</i></p>	5

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
		provision (at Article 39). The Applicant has proposed additional wording accordingly. This wording has also been provided in relation to the Norfolk Vanguard Offshore Wind Farm Examination.	<i>for Trinity House), any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration in accordance with the rules at Schedule 9 of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Centre for Effective Dispute Resolution.</i>	
98.	Schedule 11, Part 4, Condition 23	At Deadline 4, following ongoing dialogue with key stakeholders, the Applicant introduced a structure exclusion zone to the Project. The structure exclusion zone is secured through a condition in both DMLs and the draft DCO has been updated to reflect this	<b><u>Structure exclusion zone</u></b> <i>23.—(1) No wind turbine generator, meteorological mast, wind buoy or floating Lidar forming part of the authorised development shall be erected within structures exclusion zone as demarcated on the offshore works plan.</i> <i>(2) The grid coordinates for the structure exclusion zone are specified below—</i>	5
99.	Schedule 12, Part 4, Condition 24		<b><u>Structure exclusion zone</u></b> <i>24.—(1) No offshore substation forming part of the authorised development shall be erected within structures exclusion zone as demarcated on the offshore works plan.</i> <i>2) The grid coordinates for the structure exclusion zone are specified below—</i>	
100.	Schedule 1, Part 1, Authorised Development		Work No. 1— <i>(a) Subject to the area identified on the offshore works plan as the structures</i>	

Ref	DCO Ref.	Rationale for change	Change made	DCO Version													
	Schedule 11, Part 3, Details of licensed marine activities		<p><u>exclusion zone</u>, an offshore wind turbine generating station with a gross electrical output capacity of up to 340 MW comprising up to 34 wind turbine generators each fixed to the seabed by one or more of the following foundation types: monopiles; three legged jackets on either pin piles or suction caisson anchoring; four legged jackets on pin piles or suction caisson anchoring and their associated foundations, fitted with rotating blades and situated within the area shown on the works plan and further comprising (b) to (e) below;</p> <p>Work No. 2 – <u>Subject to the area identified on the offshore works plan as the structures exclusion zone</u>, an offshore substation fixed to the seabed within the area shown on the works plan by associated foundations, namely one of the following: monopiles; three legged jackets on either pin piles or suction caisson anchoring; four legged jackets on pin piles or suction caisson anchoring and their associated foundations.</p>														
101.	Schedule 11, Part 3 (1)(d)	As a result of the ongoing dialogue between the MMO and the Applicant, it was agreed that three site disposal references would be required. As of Deadline 4, the site disposal references are still to be confirmed by the MMO and so the Applicant has retained a holding reference in order to ensure that this drafting is completed and progressed for Deadline 4a, or when ready to include.	N/A at Deadline 4.	5													
102.	Schedule 12, Part 3 (1)(d)				<b>Deadline Five</b>					103.	Schedule 11, Part 4 (24) Schedule 12,	In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel asked the Applicant to include the grid coordinates for the structures exclusion	<table border="1"> <thead> <tr> <th>Point ID</th> <th>Latitude (DMS)</th> <th>Longitude (DMS)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>51° 28' 13.973" N</td> <td>1° 33' 56.681" E</td> </tr> </tbody> </table>	Point ID	Latitude (DMS)	Longitude (DMS)	1
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	Part 4 (23)	zone in the draft DCO and to review the grid coordinates to ensure they are correct.	<p><u>5</u>     <u>51° 23' 2.085" N</u>     <u>1° 36' 6.194" E</u></p> <p><u>6</u>     <u>51° 25' 33.041" N</u>     <u>1° 32' 30.523" E</u></p> <p><u>7</u>     <u>51° 27' 40.652" N</u>     <u>1° 32' 53.134" E</u></p> <p>14     51° 28' 15.183" N     1° 35' 29.471" E</p> <p>15     51° 27' 23.628" N     1° 33' 46.501" E</p> <p>16     51° 24' 45.426" N     1° 33' 51.671" E</p> <p>17     51° 23' 1.317" N     1° 36' 20.336" E</p>	
104.	Requirement 15	In the Examining Authority's second written questions and requests for information, published by the Planning Inspectorate on 10 April 2019, the Examining Authority asked the Applicant to clarify that the Construction Environmental Management Plan would accord with the Code of Construction Practice as certified (question 2.4.4). The Code of Construction Practice was submitted as a complete document not subject to further approval as part of the application in June 2018 ([APP-133]). Therefore, it would not be correct to refer to two different versions – 'draft' and 'approved' (or certified) - of the CoCP. The document is certified and the Applicant has removed requirement 16 (Code of Construction practice) to avoid confusion, and has added wording to Article 35 to clarify that all documents must be implemented as certified.	<p><b><u>Code of Construction Practice</u></b></p> <p><del><u>16. The code of construction practice certified in accordance with Article 35 in relation to the relevant stage of the connection works must be complied with in relation to that stage of the connection works, including any amendments or variations that may subsequently may be approved in writing by the relevant planning authority in accordance with requirement 28 of this Schedule.</u></del></p>	6
105.	Article 35	The Applicant reviewed the content of other made and draft offshore wind farm Orders to confirm the remit of the CEMP and what it should contain. On review of these, alongside the various other plans provided for in the Requirements in the draft DCO, the Applicant has made clear that detail relating to watercourse crossings will be provided for in the CEMP. This however excludes any watercourse requiring separate consent pursuant to the Land Drainage Act 1991, which as part of a separate process requires the submission of certain evidence and information to satisfy the discharging authority	<p><b><u>Certification of plans etc.</u></b></p> <p><del><u>(4) Each programme, statement, plan, protocol or scheme listed in Schedule 13 must be complied with as certified.</u></del></p>	6

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
		that works can be undertaken.		
106.	Schedule 11, Part 4 (6)(7) Schedule 12, Part 4 (5)(7)	In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel asked the Applicant to amend this subsection to remove the email address and to require notice to be served to Kingfisher Information Service of Seafish fourteen days prior to the commencement of offshore activities.	<p><b>Notifications and inspections</b></p> <p><i>(7) The Kingfisher Information Service of Seafish, must be <u>informed notified electronically</u> of details of the vessel routes, timings and locations relating to the construction of the authorised project or any part thereof <u>by email to kingfisher@seafish.co.uk</u>:—</i></p> <p><i>(a) at least <u>ten working fourteen</u> days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and</i></p> <p><i>(b) as soon as reasonably practicable and no later than 24 hours of completion of all offshore activities.</i></p>	6
107.	Schedule 11, Part 4 (6)(11) Schedule 12, Part 4 (5)(11)	In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel asked the Applicant to include wording within the DML to ensure timely notification for safety to fisherman of any cable exposure.	<p><b>Notifications and inspections</b></p> <p><i>(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House and the UK Hydrographic Office. <u>In case of exposure of cables on or above the seabed, the undertaker must within five days following the receipt by the undertaker of the final survey report from the periodic burial survey, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of</u></i></p>	6

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			<u>exposure.</u>	
108.	Schedule 11, Part 4 (12) Schedule 10, Part 4 (10)	In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel asked the Applicant to include wording to secure turbine ID lighting as an informal aid to navigation by fishing vessels.	<b>Pre-construction plans and documentation</b> <i>(j) An aids to navigation management plan to be approved in writing by the MMO following consultation with Trinity House, to include <u>details of any ID lighting and details of</u> how the undertaker will comply with the provisions of condition 7 for the lifetime of the authorised scheme.</i>	6
109.		In their submissions at Deadline 4b, the MMO asked the Applicant to amend the wording within this condition to reflect that the site integrity plan will be improved in consultation with Natural England.	<b>Pre-construction plans and documentation</b> <i>(k) A site integrity plan, which must be approved in writing by the MMO <u>in consultation with Natural England</u> prior to the commencement of operation of the licensed activities and which must accord with the outline site integrity plan (as certified in accordance with article 35).</i>	6
110.	Requirement 26 Schedule 12, Part 4 (18)	In the "ISH8: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel asked the Applicant to include wording to secure the seasonal restriction proposed within the schedule of mitigation.	<b><u>Seasonal restriction in respect of non-breeding waterbirds</u></b> <i><u>18.—(1) The undertaker must ensure that no percussive piling activity within Works 3A and 3B takes place between 1st October to 31st March (inclusive) of any year.</u></i> <i><u>(2) The undertaker must ensure that no construction works takes place within the intertidal area between 1st October to 31st March (inclusive) of any year.</u></i>	6
111.	Schedule 12, Part 4 (13)(2)(b)	At Issue Specific Hearing 8, the Panel asked the Applicant to clarify the wording within this condition to more clearly set out the mitigation	<b>Pre-construction monitoring and surveys</b> <i>(b) In the event <del>that certain works are carried</del></i>	6



Ref	DCO Ref.	Rationale for change	Change made	DCO Version
		measures proposed for the benefit of the Goodwin Sands rMCZ.	<p><del>out in the Goodwin Sands rMCZ—</del></p> <p>(i) <u>cable protection is installed within the Goodwin Sands rMCZ</u>, ground truthing of the geophysical surveys carried out in accordance with sub-paragraph (2)(c), using drop down video and to be focussed on the areas where cable protection has been installed to monitor epifaunal communities and inundation by sand, <del>in the event that cable protection is installed within the Goodwin Sands rMCZ</del>;</p> <p>(ii) <u>sandwave clearance is required within the Goodwin Sands rMCZ</u>, interpreted geophysical monitoring to monitor changes in sediment type, <del>in the event that sandwave clearance is required within the Goodwin Sands rMCZ</del></p>	
112.	Schedule 12, Part 4 (15)(5)		<p><b>Post construction</b></p> <p>(5) <i>In the event that cable protection <u>or sandwave clearance</u> is installed within the Goodwin Sands rMCZ, the undertaker must conduct epifaunal monitoring and carry out ground truthed geophysical surveys for a total period of three years, which is capable of being undertaken continuously or in one or more stages.</i></p>	6
113.	Schedule 12, Part 4 (13)(3)	In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel asked the Applicant to define relevant body (Natural England) in Part 4 Conditions item 10(m).	<p><b>Pre-construction monitoring and surveys</b></p> <p>(3) <i>The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with <del>the relevant</del></i></p>	6

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
			<del>statutory nature conservation bodies</del> <u>Natural England.</u>	
114.	Schedule 13	In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel requested that a document version control column to be added to this Schedule.	The table at Schedule 13 has been updated to include the document reference, date of publication and version of each document to be certified. The Applicant has also updated the table to reflect the full suite of documents to be certified, including the Schedule of Mitigation and the Schedule of Monitoring.	6
115.	Schedule 11, Part 4 (12)(m)	At Issue Specific Hearing 8, the Panel asked the Applicant to clarify that the ornithological monitoring plan would be secured through the DMLs.	<b><i>Pre-construction plans and documentation</i></b> <u>(n) An offshore ornithological monitoring plan, in accordance with the in-principle offshore ornithological monitoring plan (as certified within article 35).</u>	6
116.	Schedule 11, Part 3 (1) Schedule 12, Part 3 (1)	As a result of the ongoing dialogue between the MMO and the Applicant, it was agreed that three site disposal references would be required. The site disposal references and volumes were confirmed prior to Deadline 5 and the DMLS have been updated accordingly.	The site disposal references and a breakdown of the volume of inert material to be disposed at the three sites has been included within both DMLs.	6
117.	Interpretation	In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel requested that the Applicant amend the DCO and DMLs to include a definition of 'Structures Exclusion Zone' within Article 2 ('Interpretation') of the DCO and equivalent sections of the DMLs, and to clarify which activities would be allowed within the Structures Exclusion Zone.	<u>"structures exclusion zone" means the area hatched green on the offshore works plan;</u>	6
118.	Requirement 6	The previous wording relating to Structures Exclusion Zone submitted at Deadline 4 has been deleted from the draft DCO and replaced with this wording. Conditions 13(b) and (c) have also been amended to specify that, as part of the pre-construction plans and documentation specific detail relating to the works taking place in the Structures Exclusion Zone – and the timing of such works – will be submitted for approval.	<u>6.—(1) None of the infrastructure listed in Work No.1 (a) to (c), Work No.(2), Further Work (a), nor Ancillary Works (a),(c) and (d), shall be installed within the structures exclusion zone, the coordinates of which are specified below—</u> <u>(2) No part of any wind turbine generator, including its blades, may oversail into the Structures Exclusion Zone.</u>	6

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
119.	Schedule 11, Part 4 (5)		<p><u>5.—(1) None of the infrastructure listed in Work No.1 (a) to (c) shall be installed within the structures exclusion zone, the coordinates of which are specified below—</u></p> <p><u>(2) No part of any wind turbine generator, including its blades, may oversail into the Structures Exclusion Zone.</u></p>	6
120.	Schedule 12, Part 4 (4)		<p><u>4. None of the infrastructure listed in Work No.(2), Further Work (a) nor Ancillary Works (a),(c) and (d) shall be installed within the structures exclusion zone, whose coordinates are specified below—</u></p>	6
121.	Schedule 12, Part 4 (13)		<p>(b) A construction programme and monitoring plan to include details of—</p> <p><u>(v) details of the works to be undertaken within the structures exclusion zone; and</u></p> <p><u>(vi) the proposed timetable for undertaking of such works within the structures exclusion zone.</u></p> <p>(c) A construction method statement in accordance with the construction methods and relevant parameters assessed in the environmental statement and including details of—</p> <p><u>the implementation of safety zones and their interaction with the structures exclusion zone</u></p>	6
122.	Requirement 11 Schedule 12, Part 4 (14)	In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel requested that the Applicant insert wording to clarify cross-boundary 'handshake': consultation and approval procedures in the intertidal zone	<p><u>Approvals of documentation in relation to Works 3A and 3B</u></p> <p><u>(1) Each programme, statement, plan, protocol or scheme required to be approved</u></p>	6

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
			<p><i>in relation to Works 3A and 3B may, where required, be approved by more than one statutory body in whole or in part.</i></p> <p><i>(2) If all or any part of such document referred to in paragraph (1) requires approval by more than one discharging authority, those discharging authorities will consult with one another prior to giving their requisite approvals in accordance with the provisions of this Order.</i></p>	
123.	Schedule 11, Part 4 (17)	In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel requested that the Applicant include vessel traffic monitoring within this condition in Schedule 11.	<p><b><i>5) Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. A report must be submitted to the MMO and the MCA at the end of each year of the construction period.</i></b></p>	6
124.	Requirement 13	In the "ISH8: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Panel requested that the Applicant consider wording to secure the Saltmarsh mitigation, reinstatement and monitoring plan within the DCO.	<p><b><i>Saltmarsh mitigation, reinstatement and monitoring plan</i></b></p> <p><i>13. The undertaker must undertake appropriate surveys at the locations for Works No. 3A and 3B in order to monitor the impact of development authorised by the Order within any areas of saltmarsh, as provided for within the saltmarsh mitigation, reinstatement and monitoring plan.</i></p>	6
125.	Article 19	In the Examining Authority's second written questions and requests for information, published by the Planning Inspectorate on 10 April 2019, the Examining Authority asked the Applicant to include wording within the DCO to make clear that once a cable route option has been finalised, land within Richborough Energy Park identified as a 'cable route option – permanent acquisition of new rights' will be released from the burden of compulsory acquisition powers.	<p><b><i>Compulsory acquisition of rights</i></b></p> <p><i>(5) In exercising compulsory acquisition of rights the undertaker shall not exercise Right E (as listed in Schedule 5) in order to carry out Work No. 16 without having first notified the Secretary of State in writing which one of the three cable option routes to link parcels</i></p>	6

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
			<p><u>02/120 and 02/130 will be required for the authorised project being either parcels 02/124, 02/125, 02/140 and 02/135 (together option 1), parcels 02/122, 02/124, 02/125, 02/140 and 02/135 (together option 2) or parcel 02/121 (option 3) and shall thereafter only implement compulsory acquisition of rights over land in respect of that selected option in order to deliver one of option 1, option 2 or option 3 for the cable installation between parcels 02/120 and 02/130.</u></p>	
126.	Article 17	<p>In the Examining Authority's second written questions and requests for information, published by the Planning Inspectorate on 10 April 2019, the Examining Authority asked the Applicant to address the potential for the Crown Estate failing to grant an agreement for lease prior to the Secretary of State making a decision to grant the DCO. The Applicant has included wording at Article 17 to address this scenario.</p>	<p><b>Compulsory acquisition of land</b></p> <p>17.—(1) <i>The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project or to facilitate, or is incidental, to it.</i></p> <p>(2) <i>This article is subject to paragraph (2) of article 19 (compulsory acquisition of rights) and article 25 (temporary use of land for carrying out the authorised project).</i></p> <p><u>(3) The undertaker must not exercise any powers of compulsory acquisition authorised by this Order until it has acquired a legal estate in the seabed in the form of an Agreement for Lease from the Crown Estate for which includes the offshore wind turbine generating station comprised in Work No. 1 and provide the Secretary of State with written evidence of such interest.</u></p> <p><u>(4) Upon exercising compulsory acquisition powers in respect of parcels 02/65, 02/70, 02/75 and 02/85 as shown on the land plans and having completed Work No. 14, the undertaker must offer back the freehold of</u></p>	6

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
			<p><u>those parcels to the previous freeholder at the time that compulsory acquisition powers were exercised, to the extent that the undertaker has:</u></p> <p><u>(a) ___ acquired the freehold title to undertake Work No.14; and</u></p> <p><u>(b) put in place occupational arrangements with the occupiers at the time that compulsory acquisition powers were exercised to provide for their occupation of the reconfigured layout.</u></p>	
127.	Article 16	<p>In the "ISH9: Hearing Action Points" document published by the Planning Inspectorate on 24 April 2019, the Examining Authority asked the Applicant to insert drafting to clarify the process for demarcation of buoyage. The Applicant has since liaised directly with Trinity House and has inserted their suggested preferred wording, including a definition of "permanent structure".</p>	<p><b>Public rights of navigation</b></p> <p><i>16.—(1) Subject to paragraph (2), the rights of navigation over the places in the sea where any of the permanent structures (wind turbine generators, meteorological mast or offshore substations, including their foundations) are located within territorial waters will be extinguished.</i></p> <p><u>(2) The Applicant will submit a plan showing the precise locations of each permanent structure to Trinity House, the MCA, the MMO and the Secretary of State;</u></p> <p><u>(a) ___ in the case of Trinity House, no later than ten weeks prior to the commencement of the works;</u></p> <p><u>(b) ___ in all other cases, no later than eight weeks prior to the commencement of the works.</u></p> <p><u>(3) The plan submitted in accordance with paragraph (2) will be published by the undertaker as required by the Secretary of State.</u></p>	6

Ref	DCO Ref.	Rationale for change	Change made	DCO Version
			<p><u>(4) The Applicant will exhibit such lights, marks, sounds and signals and other aids to navigation and take such steps for prevention of danger to navigation caused by the construction of the permanent structures as Trinity House directs.</u></p> <p><u>(5) Subject to the undertaker complying with paragraph (4), 14 days prior to the commencement of the works, the public right of navigation over the places of the sea where the plan indicates each permanent structure is to be located will be extinguished.</u></p> <p>(6) In respect of the location of any individual wind turbine generator, meteorological mast or offshore substation, paragraph (1) will cease to have effect as soon as that wind turbine generator, meteorological mast or offshore substation has been decommissioned and permanently removed, and the relevant rights of navigation will resume.</p>	
128.	Interpretation		<p><u>"permanent structure" means a wind turbine generator, meteorological mast or offshore substation forming part of the authorised project and includes, in each case, its foundations;</u></p>	6
129.	Requirement 24 Schedule 11, Part 4 (14)(2) Schedule 12, Part 4 (12)(2)	In their written submissions at Deadline 5, Historic England asked the Applicant to clarify that intrusive pre-commencement works would not take place prior to the approval of an onshore written scheme of investigation.	<p>(1) Pre-commencement and pre-construction archaeological investigations and material operations which involve intrusive seabed works must only take place in accordance with a specific offshore written scheme of investigation which:</p> <p>(a) has been properly informed by any</p>	6

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			<p>necessary surveys as are required; and</p> <p>(b) has been submitted to and approved by the MMO accompanied by all relevant documentation that may be required</p> <p>and that will be in accordance with the details set out in the offshore archaeological draft written scheme of investigation.</p> <p><u>(2) Pre-commencement works of an instructive nature must not take place prior to the approval of the onshore written scheme of investigation submitted in accordance with sub-paragraph (1).</u></p>	
130.	Schedule 11, Part 4 (13)(h) Schedule 12, Part 4 (11)(i)	In their written submissions at Deadline 5, Historic England asked the Applicant to clarify that the offshore written schemes of investigation will be submitted four months prior to commencement,	<p>(i) An offshore written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean high water, which must be <u>submitted four months</u> prior to commencement of the licensed activities and must accord with the offshore archaeological written scheme of investigation and industry good practice, in consultation with the statutory historic body to include—</p>	6
131.	Schedule 9	The Applicant submitted a written opinion in relation to arbitration from Counsel at Deadline 5, and updated Schedule 9 according to his recommendation that any award could be publicised where appropriate to ensure transparency.	<p><b>Confidentiality</b></p> <p>7.—(1) The parties agree that any hearings in this Arbitration must take place in private.</p> <p>(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 and for compliance with legislative rules, functions or obligations on either party.</p>	6



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			<i>(2) Either party to the proceedings, or the Arbitrator, may unilaterally decide to publicise any award made.</i>	
<b>Deadline 6</b>				
132.	Schedule 11 Part 4 Condition 14(2)  Schedule 12 Part 4 Condition 12(2)	While reviewing the Draft DCO the Applicant has noted a typographical error and has replaced "onshore" with "offshore"	<i>Any pre-commencement works of an intrusive nature must not take place prior to the approval of the <del>onshore</del> offshore written scheme of investigation submitted in accordance with sub-paragraph (1).</i>	6
133.	Article 2 Interpretation  Schedule 11 Part 1 Condition 1	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority asked the Applicant to replace "generation" with "generator" in the definition of "draught height".	<i>"draught height" means the distance between the lowest point of the rotating blade of the wind turbine <del>generation</del> generator and MHS.</i>	6
134.	Schedule 1 Part 3 Requirement 8	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority asked the Applicant to replace "submitted to the Secretary of State for approval" by "submitted to and approved by the Secretary of State" or equivalent words.	<i>No offshore works may commence until a written decommissioning programme in compliance with any notice that may be served upon the undertaker by the Secretary of State pursuant to section 105(2) of the 2004 Act has been submitted to <del>and approved by</del> the Secretary of State <del>for approval</del>.</i>	6
135.	Schedule 11 Part 4 Condition 13(k)	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority	<i>A site integrity plan, which must <del>be approved in writing by the MMO prior to the commencement of the licensed activities and which must</del> accord</i>	6

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	Schedule 12 Part 4 Condition 11(1)(l)	noted that Natural England has welcomed its addition as a consultee on the preparation of a site integrity plan (SIP) for the Generation Assets DML [REP5A-005]. Natural England have requested that the same amendment be made to the parallel provision in the Export Cable System DML at Condition 11(i)(l) of Sch 12 which currently provides only for the MMO to approve the SIP.	<i>with the outline site integrity plan (as certified in accordance with <b>article 35</b>) and in accordance with the site integrity plan:</i>  <i>(2) be approved in writing by the MMO in consultation with Natural England:</i>	
136.	Article 16(2)	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority asked the Applicant to add the Port of London Authority to Article 16(2).	<i>The undertaker will submit a plan showing the precise locations of each permanent structure to Trinity House, the MCA, the MMO, <u>the Port of London Authority</u> and the Secretary of State;</i>	6
137.	Schedule 11 Part 4 Condition 17(4)	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority asked the Applicant to add Trinity House to the bodies receiving monitoring reports under Condition 17(4)	<i>Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. A report must be submitted to the MMO, <u>Trinity House</u> and the MCA at the end of each year of the construction period.</i>	6
138.	Schedule 13	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority asked the Applicant to include reference to Article 35 in the title of Schedule 13.	<i>SCHEDULE 13 <u>Article 35</u> Documents to be Certified</i>	6
139.	Schedule 12 Part 4 Condition 15(2)(b)(i)	In the MMO's response to the Examining Authority's Second Written Questions the MMO queried if the reference to sub paragraph 2(c) was correct given it referred to a different set of surveys related to saltmarsh. The MMO also requested that the Applicant make it clear that surveys will be undertaken pre-construction.	<i>(i) cable protection is <u>to be</u> installed within the Goodwin Sands rMCZ <u>(or as designated the Goodwin Sands MCZ) in accordance with condition 11(1)(b)</u>, ground truthing of the geophysical surveys carried out in accordance with sub-paragraph (2)(<u>ed</u>), using drop down video and to be focussed on the areas where cable protection has been installed to monitor epifaunal communities</i>	6

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			<i>and inundation by sand;</i>	
140.	Schedule 12 Part 4 Condition 15(2)(b)(ii)	Throughout this examination period the MMO and Natural England have asked the Applicant to provide for surveys to be taken both for pre-construction and post-construction for sandwave clearance.	<i>(ii) sandwave clearance is required within the Goodwin Sands rMCZ (or as designated the Goodwin Sands MCZ), interpreted geophysical monitoring to monitor changes in sediment type, <del>sandwave clearance is required within the Goodwin Sands rMCZ;</del></i>	6
141.	Explanatory Memorandum	The Applicant has received confirmation that Thanet District Council will store copies of the plans and book of reference referred to in the draft DCO.	<i>A copy of the plans and book of reference referred to in this Order and certified in accordance with article 35 (certification of plans, etc.) of this Order may be inspected free of charge at the offices of <u>Thanet District</u> Council at <u>Cecil Street, Margate, CX9 1XZ</u>.</i>	6
142.	Schedule 11 Part 4 Condition 17(3) Schedule 12 Part 4 Condition 16(3)	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority asked the Applicant to accede or propose additional drafting to the MMO's request for further monitoring where construction noise monitoring confirms there is a significant adverse effect.	<i>The results of the initial noise measurements monitored in accordance with sub-paragraph (1) must be provided to the MMO within six weeks of the installation of the first four piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. <u>The MMO may request that further monitoring is undertaken, unless otherwise agreed in writing with the undertaker. If, in the opinion of the MMO in consultation with Natural England, the assessment shows significantly different impact to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the MMMP and further monitoring requirements have been agreed.</u></i>	6
143.	Schedule 11 Part	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority	<i><u>(4) Post construction monitoring must include vessel traffic monitoring by automatic</u></i>	6

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	4 Condition 18(4)	noted that Trinity House has requested at Deadline 5A that Condition 18 should be amended to provide for operational vessel traffic modelling in similar terms to the construction vessel traffic modelling provided for in Condition 17.	<i>identification system for a duration of three years following the completion of construction of authorised scheme. A report must be submitted to the MMO and the MCA at the end of each year of the three year period.</i>	
144.	Schedule 11 Part 4 Condition 13(k) Schedule 12 Part 4 Condition 11(l)	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority ask the Applicant to consider Natural England's request that their addition as a consultee to the Site Integrity Plan (SIP) in Schedule 11 was carried over into the parallel provision in Schedule 12.  The condition has been amended to make clear the Site Integrity Plan's (SIP) approval is not prior to operation in the draft DCO submitted by the Applicant for Deadline 5.  The Applicant has then reflected the timescales of providing the SIP in two stages on the face of the dDCO; the first SIP being provided four months prior to geophysical survey work and the next SIP being provided four months prior to the undertaking of the next relevant noisy activity (as stated in the SIP).	<i>A site integrity plan, which must <del>be approved in writing by the MMO in consultation with Natural England prior to the commencement of the licensed activities and which must</del> accord with the outline site integrity plan (as certified in accordance with <b>article 35</b>) and in accordance with the site integrity plan:  (2) be approved in writing by the MMO in consultation with Natural England:  (i) four months in advance of any geophysical surveys being undertaken; and  (ii) a second time four months prior to the carry out of the next relevant noisy activity</i>	6
145.	Schedule 11 Part 4 Condition 15(6) Schedule 12 Part 4 Condition 13(6)	In the MCA's commentary on the Draft DCO submitted at Deadline 5 the MCA requested that the wording of the conditions was replaced. The Applicant notes the response and the proposed drafting but does not agree that the content of the condition requires amendment. The Applicant has included minor amendments to this condition within the revised dDCO, to provide clarity.	<i>No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval <del>of an to an</del> Emergency Response Co-operation Plan (ERCoP), which includes full details of the plan for emergency response and co-operation for the construction, operation and decommissioning phases of that part of the authorised scheme. <u>This must be</u> in accordance with the MCA recommendations contained within MGN543 "Offshore Renewable Energy Installations (OREIs) – Guidance on UK</i>	6

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			<i>Navigational Practice, Safety and Emergency Response Issues". <u>In providing its approval, the MMO and has must confirmed</u> in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN543 and its annexes.</i>	
146.	Schedule 12 Part 4 Condition 6(10)	In the MMO's commentary on the Draft DCO submitted at Deadline 5 the MMO requested that the requirement for copies of all notices to be provided to the MMO within 5 days contained within condition 6(10) at schedule 11 was replicated in the same condition within Schedule 12.	<i>(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO. <u>Copies of all notices must be provided to the MMO within five days.</u></i>	6
147.	Schedule 12 Part 4 Condition 17(a)	Throughout the examination period Natural England have requested further reassurances that post-construction geophysical surveys will be ground truthed to fully determine the success of any required micro-siting around areas of core reef.	<i><u>(a) appropriate surveys (including ground-truthing of the bathymetry surveys required under Condition 15(2)(d)) to determine the location and extent of any biogenic reef features (Sabellaria spinulosa) inside the area(s) within the Order limits in which it is proposed to carry out construction works, as provided for in the Biogenic Reef Mitigation Plan;</u></i>	6
148.	Schedule 1 Part 3 Requirement 12 Schedule 12 Part 4 Condition 20	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority ask the Applicant to consider what the landfall works method statement referred to was and whether it should be defined. The Applicant considers that the purpose of Requirement 12 is to act as a mechanism for notification of the Relevant Planning Authority the specific option being undertaken at landfall. It is also to provide, as part of that notification, the predicted timescales for the implementation of those specific set of works. The Applicant has	<i>The <del>method statement notification</del> must include the anticipated timing of the proposed works being undertaken.</i>	6

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		therefore amended the dDCO to make this purpose explicitly clear, rather than refer to a "method statement".		
149.	Schedule 11 Part 4 Condition 17 Schedule 12 Part 4 Condition 16	The Applicant notes that the only statutory body relating to nature conservation is Natural England. The Applicant has therefore removed references to the relevant statutory nature conservation bodies and directly referenced Natural England for clarity.	<i>The undertaker must, in discharging condition 11(d), submit details for approval by the MMO in consultation with <del>the relevant statutory nature conservation bodies</del> <u>Natural England</u> of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives. The monitoring required is that for the measurement of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed.</i>  <i>(2) The undertaker must carry out the surveys approved under sub-paragraph (1) including any further noise monitoring required in writing by the MMO, 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 <del>the relevant statutory nature conservation bodies</del> <u>Natural England</u>.</i>	6
150.	Article 16	In the MCA's commentary on the Draft DCO the MCA asked the Applicant why the extinguishment of the rights of navigation was considered necessary. The Applicant considers that "suspension" would be legally more accurate than "extinguishment", notwithstanding the precedent set by numerous and previous development consent orders. The Applicant has amended the wording on that basis in the dDCO submitted for Deadline 6.	<i>(1) Subject to paragraph (2), (4) and (5), the rights of navigation over the places in the sea where any of the permanent structures are located within territorial waters will be <del>extinguished</del> <u>suspended</u>.</i>  <i>(5) Subject to the undertaker complying with paragraph (4), 14 days prior to the commencement of the works, the public right of navigation over the places of the sea where the plan indicates each permanent structure is to be located will be <del>extinguished</del> <u>suspended</u>.</i>	6

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151.	Article 36	The Applicant has changed difference to dispute or decision and included an additional sub-paragraph to make it clear that the arbitration provision does not apply to the discharge of requirements under Schedule 10.	<p>(1) Subject to <b>Article 39</b> (Saving provisions for Trinity House), any <del>dispute-fference or decision</del> under any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration in accordance with the rules at <b>Schedule 9</b> of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Centre for Effective Dispute Resolution.</p> <p>(2) The procedure in sub-section <b>Error! Reference source not found.</b> does not apply to the discharge of requirements under <b>Schedule 10</b>.</p>	6
152.	Schedule 13	In the MMO's commentary on the Draft DCO submitted at Deadline 5 the MMO noted that the Fisheries Liaison and Co-existence Plan was listed incorrectly at the 'Fishing Liaison and Co-existence Plan' in schedule 13. The Applicant notes the typographical error and has updated the draft DCO accordingly.	<del>Fisher</del> ies <del>ing</del> Liaison and Coexistence Plan	6
153.	Article 2 Interpretation 'pre-commencement works'	<p>In the MMO's commentary on the draft DCO the MMO advised that they considered that the provisions for pre-commencement activities were not sufficient and should include additional key parameters such as seabed preparation activities should be included on the face of the Order.</p> <p>In order to address any overlap and ensure that sufficient mitigation is secured for any works carried out prior to formal commencement, the Applicant has updated the definition of "pre-commencement works" in</p>	<p>"pre-commencement works" means archaeological investigations, remedial work in respect of any contamination or other adverse ground conditions, the erection of any temporary fencing or temporary means of enclosure, <del>seabed preparation and clearance, site clearance and preparation, demolition work and diversion and laying of services, temporary</del></p>	6

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		the DCO to ensure it includes all works which could have likely significant effects and therefore require mitigation.	<i>structures or hard standing</i>	
154.	Schedule 1 Requirement 32	<p>In order to address any overlap and ensure that sufficient mitigation is secured for any works carried out prior to formal commencement, the Applicant has inserted a new requirement in Schedule 1 in relation to pre-commencement works. The requirement secures the submission and approval of any relevant information required pursuant to the various requirements or conditions listed above in relation to the pre-commencement works before they can begin.</p> <p>A catch all provision has also been included to allow the discharging authority to request and the undertaker to supply voluntarily any other additional information required in relation to mitigation for the pre-commencement works, not listed in the specific requirements and conditions.</p> <p>The wording makes it clear that the pre-commencement works can be carried out without having to discharge each of the requirements in full, only the information that is relevant to those early stage works needs to be approved before works can start.</p>	<p><i>(32)(1) No pre-commencement works may commence until all details relevant to the pre-commencement works required by Requirements 14, 17, 18, 19, 21, 22, 23, 24 and 25 in Schedule 1 Part 3 of this Order have been submitted to and approved by the relevant authority as required by that requirement.</i></p> <p><i>(2) In addition to sub-section (1);</i></p> <p><i>(a) the undertaker may submit; and</i></p> <p><i>(b) the relevant discharging authority may request</i></p> <p><i>any additional information deemed necessary to ensure adequate mitigation is secured in relation to the pre-commencement works.</i></p> <p><i>(3) The details required pursuant to sub-sections (1) and (2) may be submitted separately and in advance of the details required to discharge the requirement in advance of commencement.</i></p>	6
155.	Article 37 Schedule 10 (1)(1)	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority asked the Applicant to review the list of requirements set out in Article 37(2). The Applicant has reviewed this Schedule and updated the cross references accordingly.	<i>Where an application has been made to a discharging authority for any agreement or approval required pursuant to requirements 9, 11, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28 and 29 requirements 7, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25 and 26 in Part 3 of Schedule 1 (requirements) of this Order</i>	6
156.	Article 5	The Applicant proposes that a transfer to a group company of Vattenfall AB can be carried out without the Secretary of State's	<i>(3) The undertaker must consult the Secretary of State before making an application for consent</i>	6



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		<p>consent (subject to relatively extensive information being provided on notification to the Secretary of State being notified prior to the transfer).</p> <p>There is precedent from previous DCOs to permit a transfer to a generation license holder, including the East Anglia ONE and THREE offshore wind farm orders. The Applicant proposes to permit transfers to a transmission license holder, but notes that generation licence holders do not have to hold any particular covenant strength, whereas transmission license holders are more heavily regulated by OFGEM, and are accordingly considered to be comparatively risk-free in this respect.</p> <p>The Applicant submits that a group company of Vattenfall AB can be regarded similarly likely to have access to funds as a transmission licence holder. Vattenfall AB is owned directly by the Swedish state and has a net asset value of approximately £8.3 billion.</p> <p>The Applicant has also included additional wording in sub-section (11) which allows the undertaker to appeal a decision of the Secretary of State in accordance with Schedule 14 (appeal procedure)</p>	<p><i>under this article by giving notice in writing of the proposed application and the Secretary of State must provide a response within <del>four</del> eight weeks of receipt of the notice.</i></p> <p><i>(4) If the undertaker transfers any of all of the benefit of the provisions of this Order pursuant to paragraph (1) <del>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,</del> 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</i></p> <p><i>(9) The Secretary of State must consult National Grid before giving consent to the transfer or grant to a person of any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) above).</i></p> <p><i>(11) Where the Secretary of State is minded to refuse an application for consent made under this article 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 <b>Error! Reference source not found.</b>, the undertaker may refer the matter for determination in accordance with <b>article 36</b> (arbitration) or appeal the decision in accordance with <b>Schedule 14</b> (procedure for appeals).</i></p> <p><i>(15)(c)the transferee or lessee is a person who</i></p>	

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			<p>holds a <i>transmission</i> licence under the Electricity Act 1989; or</p> <p><i>(15)(d)(v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable or</i></p> <p><i>(vi) the transferee or lessee is a person within the same group as Vattenfall AB (publ) (a company incorporated in Sweden with Reg. No. 556036-2138, whose registered office is SE-169 92 Stockholm Sweden) under Section 1261 of the Companies Act 2006.</i></p> <p><i>(17) In respect of any transfer or grant of a leasehold interest to a company within the same group as Vattenfall AB (publ) in accordance with paragraph 16(c), the undertaker must obtain National Grid's approval in writing before any such transfer or grant occurs (such approval not to be unreasonably withheld or delayed), and such approval must be given provided that prior to the transfer or grant, the transferee or lessee provides a direct covenant to National Grid to comply with any contractual obligations of the undertaker given to National Grid in respect of that part of the authorised project to be transferred or subject to the grant of a lease.</i></p> <p><i>(19) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to work or utilisation of powers in the vicinity to the exercise of powers in their area, to the MMO</i></p>	

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			<i>and the relevant planning authority, and if such transfer or grant relates to works or utilisation of powers within 15 metres measured in any direction of apparatus of National Grid, to National Grid.</i>	
157.	Schedule 8 Part 2	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority asked the Applicant to ensure that all negotiation between the Applicant and relevant statutory undertakers on the form and content of the Protective Provisions was agreed by Deadline 6	The Applicant has been in negotiations with National Grid Electricity Transmission PLC (NGET) and has updated the Protective Provisions for the protection of NGET in the Draft DCO.	6
158.	Schedule 13	In the Examining Authority's commentary on the draft DCO published by the Planning Inspectorate on 7 May 2019 the Examining Authority asked the Applicant to carry out an audit of all documents to be certified with correct version numbers and dates.	The Applicant has amended the list of documents to be certified in Schedule 13 to include documents forming part of the Environmental Statement. The Applicant has also updated the list to show the latest versions of all documents and the date they were submitted.	6
159.	Schedule 1 Part 3 Requirement 18	The County Council considers that it would be more appropriate for the requirement to reference "flood risk and surface water management" so that it includes drainage for general operations/arrangements, so the Applicant has updated the requirement accordingly.	(a) flood risk and surface water management;	6
160.	Schedule 11 Condition 24 And Schedule 12 Condition 27	In order to address any overlap and ensure that sufficient mitigation is secured for any works carried out prior to formal commencement, the Applicant has inserted a new condition in Schedule 11 and 12 in relation to pre-commencement works. The condition secures the submission and approval of any relevant information required pursuant to the various requirements or conditions listed above in relation to the pre-commencement works before they can begin.  A catch all provision has also been included to allow the discharging authority to request and the undertaker to supply voluntarily any other additional information required in relation to mitigation for the pre-	<b>Pre-commencement works</b>  <i>2.—(1) No pre-commencement works may commence until all details relevant to the pre-commencement works required by Condition 13 in Schedule 11 of this Order have been submitted to and approved by the MMO.</i>  <i>(2) In addition to sub-section (1):</i>  <i>(a) the undertaker may submit, and</i>	

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		<p>commencement works, not listed in the specific requirements and conditions.</p> <p>The wording makes it clear that the pre-commencement works can be carried out without having to discharge each of the requirements in full, only the information that is relevant to those early stage works needs to be approved before works can start.</p>	<p><i>(b) the MMO may request any additional information deemed necessary to ensure adequate mitigation is secured in relation to the pre-commencement works.</i></p> <p><i>(3) The details required pursuant to sub-sections (1) and (2) may be submitted separately and in advance of the details required to discharge the condition in advance of commencement.</i></p>	
161.	<p>Schedule 11 Condition 25</p> <p>And</p> <p>Schedule 12 Condition 28</p>	<p>This wording has been included at the request of the MMO in its commentary on the Draft DCO submitted at Deadline 5 to ensure compliance with the certified documents in the DMLs.</p> <p>It also allows minor changes to be made to the certified documents with approval from the MMO, provided the changes do not give rise to any materially new or materially different environmental effects to those assessed in the Environmental Statement.</p>	<p><b>Certified documents</b></p> <p><i>3.—(1) Subject to paragraph (2) each programme, statement, plan, protocol or scheme listed in Schedule 13 of the Order (Documents to be certified under <b>Article 35</b>) which is submitted to the Secretary of State for certification pursuant to <b>Article 35</b> must be complied with as certified.</i></p> <p><i>(2) Where the MMO is the discharging authority, it may approve an amendment or variation to the following documents certified under paragraph (1) provided such approval is not given except in relation to minor or immaterial changes or deviations where it has been demonstrated to the satisfaction of the MMO that the subject matter of the approval or agreement sought does not give rise to any materially new or materially different environmental effects to those assessed in the Environmental Statement: Offshore Archaeological Written Scheme of Investigation, Fishing Liaison and Coexistence Plan, Offshore</i></p>	

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			<i>Operations and Maintenance Plan, Draft Marine Mammal Mitigation Protocol, In-principle Offshore Ornithology Monitoring Plan, Shipping and Navigation Liaison Plan and the Outline Site Integrity Plan.</i>	
162.	Schedule 11 Condition 15 and Schedule 12 Condition 13	<p>The Applicant has included provisions which set out:</p> <ul style="list-style-type: none"> <li>• a timescale for the MMO to approve any applications for approval</li> <li>• a deemed approval process for any non-determination of an application for approval submitted to the MMO within four months;</li> <li>• an appeal procedure for any refusal of an application</li> </ul>	<p><i>(3) The MMO shall determine an application for approval made under <b>conditions 13 and 14</b> within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker</i></p> <p><i>(4) Save in respect of any plan which secures mitigation to avoid adversely affecting the integrity of a European site, where the MMO fails to determine an application for approval under <b>condition 13 and 14</b> within the period referred to in sub-paragraph (3) the programme, statement, plan, protocol or scheme is deemed to be approved by the MMO</i></p> <p><i>(5) Where the MMO is minded to refuse an application for approval made under <b>condition 13 or 14</b> and notifies the undertaker accordingly, or sub-paragraph (4) does not apply and the MMO fails to determine the application for approval under <b>condition 13 or 14</b> within the period prescribed, the undertaker may appeal to the Secretary of State in accordance with the procedure in Part 5 of this licence.</i></p> <p><i>(6)</i></p>	
163.	Schedule 11 Part 5 and	The Applicant has inserted an appeal procedure to be used following a refusal of an application for approval made under condition 13 or 14	<i>1. The undertaker must submit to the Secretary of State, a copy of the application submitted to the MMO and any supporting documentation</i>	

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	Schedule 12 Part 5		<p><i>which the undertaker may wish to provide ("the appeal documentation").</i></p> <p><i>2. The undertaker must on the same day provide copies of the appeal documentation to the MMO and any relevant consultee.</i></p> <p><i>3. As soon as is practicable after receiving the appeal documentation, but in any event within 20 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><i>4. The MMO and any relevant consultee must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph 3 and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person.</i></p> <p><i>5. The appeal parties must make any counter-submissions to the appointed person within 20 business days of receipt of written representations pursuant to paragraph 4 above.</i></p> <p><i>6. The appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable. If the appointed person considers that further information is necessary to enable him to consider the appeal he must, as soon as</i></p>	

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			<p><i>practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.</i></p> <p><i>7. Any further information required pursuant to paragraph 6 must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 20 business days of that date.</i></p> <p><i>8. On an appeal the appointed person may—</i></p> <ul style="list-style-type: none"> <li><i>(a) allow or dismiss the appeal; or</i></li> <li><i>(b) reverse or vary any part of the decision of the MMO (whether the appeal relates to that part of it or not),</i></li> </ul> <p><i>and may deal with the application as if it had been made to the appointed person in the first instance.</i></p> <p><i>9. The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under this paragraph.</i></p> <p><i>10. The appointed person may proceed to a decision even though no written representations have been made within those time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be</i></p>	

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			<p><i>made on the merits of the case.</i></p> <p><i>11. The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.</i></p> <p><i>12. If an approval is given by the appointed person pursuant to this Part, it is deemed to be an approval for the purpose of Part 4 of this Schedule as if it had been given by the MMO. The MMO may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) may not be taken to affect or invalidate the effect of the appointed person's determination.</i></p> <p><i>13. Save where a direction is given pursuant to paragraph 14 requiring the costs of the appointed person to be paid by the MMO, the reasonable costs of the appointed person must be met by the undertaker.</i></p> <p><i>14. On application by the MMO or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance on the award of costs or any guidance which may from time to time replace it.</i></p>	



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164.	Schedule 11 Part 6 and Schedule 12 Part 6	The Applicant has included wording to make it clear on the face of the DCO that arbitration applies to any dispute or decision pursuant to the DMLs	<i>Any dispute under any provision of this licence, unless otherwise provided for, must be referred to and settled in arbitration in accordance with the rules at Schedule 9 of the Order, by a single arbitrator to be agreed upon by the parties within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Centre for Effective Dispute Resolution.</i>	
165.	Schedule 14 Appeals procedure		<p><b>To request an appeal</b></p> <p><b>15.</b>The undertaker must submit to the Secretary of State, a copy of the application which was submitted to the Secretary of State for determination and any supporting documentation which the undertaker may wish to provide (“the appeal documentation”).</p> <p><b>16.</b>The undertaker must on the same day provide copies of the appeal documentation to any relevant consultee.</p> <p><b>17.</b>As soon as is practicable after receiving the appeal documentation, but in any event within 5 business days of receiving the appeal documentation, the Secretary of State must forward the appeal documentation to the Law Society and the Law Society must appoint an independent person to reside over the appeal 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.</p>	6

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			<p><b>18.</b>The discharging authority and any relevant consultee must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph 25 and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person.</p> <p><b>19.</b>The appeal parties must make any counter-submissions to the appointed person within 20 business days of receipt of written representations pursuant to paragraph 26 above.</p> <p><b>20.</b>The appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable. If the appointed person considers that further information is necessary to enable him to consider the appeal he must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.</p> <p><b>21.</b>Any further information required pursuant to paragraph 6 must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made</p>	

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			<p>available to all appeal parties within 20 business days of that date.</p> <p><b>22.</b>On an appeal the appointed person may—</p> <ul style="list-style-type: none"> <li>(a) allow or dismiss the appeal; or</li> <li>(b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),</li> </ul> <p>and may deal with the application as if it had been made to the appointed person in the first instance.</p> <p><b>23.</b>The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under this paragraph.</p> <p><b>24.</b>The appointed person may proceed to a decision even though no written representations have been made within those time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.</p> <p><b>25.</b>The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.</p> <p><b>26.</b>If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but</p>	

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			<p>a failure to give such confirmation (or a failure to give it in identical form) may not be taken to affect or invalidate the effect of the appointed person's determination.</p> <p><b>27.</b>Save where a direction is given pursuant to paragraph 14 requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.</p> <p><b>28.</b>On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance on the award of costs or any guidance which may from time to time replace it.</p>	