

# **Vattenfall Wind Power Ltd**

## **Thanet Extension Offshore Wind Farm**

Appendix 4 to Deadline 6A Submission:  
Applicant's Responses to Qs 35 to 41 of the  
Examining Authority's commentary on the draft  
DCO

Relevant Examination Deadline: 6A

Submitted by Vattenfall Wind Power Ltd

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Revision A

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Revision A	Original document submitted to the Examining Authority

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**THANET EXTENSION OFFSHORE WIND FARM: RESPONSES TO QS 35 TO 41 OF THE EXAMINING AUTHORITY'S COMMENTARY ON THE DDCO**

#	DCO reference	Relevant extract from DCO	ExA Commentary	Applicant's response at Deadline 6	Amendments made to the dDCO
35.	Schedule 8	[None]	<p><b>Protective Provisions: Port of London Authority</b></p> <p>The Port of London Authority and Estuary Services Ltd. remain concerned that, notwithstanding that the Application affects waters where it provides VTS (vessel traffic services) and notices to mariners, Protective Provisions that it would view as normal in such circumstances have not been provided in the dDCO. It has accepted the absence of such provisions on the basis that the Application site is outwith the Port Authority statutory territory, albeit within sea space that is covered by VTS. The ExA notes however that this acceptance appears to be conditional on the inclusion of relevant provisions to benefit Port of London Authority in Art 16 (Public rights of navigation) and/ or further consideration by the Applicant of means of reducing potential conflicts between navigating vessels and construction, operational and decommissioning activities generally to ALARP and more</p>	<p>This was addressed in the response to Q14 of REP6-034].</p> <p>a) The Applicant has amended Article 16 to include the Port of London Authority and therefore does not believe protective provisions are necessary.</p> <p>b) as above the Applicant does not believe protective provisions are necessary.</p> <p>c) as above the Applicant does not believe protective provisions are necessary.</p>	<p><i>The undertaker will submit a plan showing the precise locations of each permanent structure to Trinity House, the MCA, the MMO, <a href="#">the Port of London Authority</a> and the Secretary of State;</i></p>

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			<p>specifically doing so in the Structures Exclusion Zone (SEZ), having regard to the primary purpose of the SEZ which is (without prejudice) to reduce navigational risk to ALARP.</p> <p>(a) If the Applicant does not propose any changes to Art 16, can and should Port of London Authority's interests be protected using a new provision in Sch 8, relating to notice of construction and the location of structures?</p> <p>(b) Could and should a protective provision address the issue of notice and siting of cabling works in the SEZ?</p> <p>(c) Could and should a protective provision address the issue of notice and siting of other construction, operation and maintenance works with potential adverse effects on navigation in the SEZ?</p>		
36.	Schedule 8	[None]	<p><b>Protective Provisions: Southern Water</b></p> <p>The ExA draws attention to an additional submission from Southern Water accepted on 3</p>	The Applicant is in discussions with Southern Water and no bespoke protective provisions have been requested. The	No amendments proposed.

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			<p>May 2019 on the basis that that body is a statutory undertaker, a Statutory Party and an Affected Person and so (notwithstanding that it did not make a relevant representation) is an IP [AS-015].</p> <p>If any Protective Provisions are required to address Southern Water's concerns, please prepare and submit these on the same basis as described in Comment 34 above.</p> <p>Southern Water is asked comment on any final drafting at Deadline 7.</p>	Applicant anticipates that Southern Water will issue a withdrawal letter before the close of the examination.	
37.	Schedule 9	[None]	<p><b>Arbitration Rules: reference to Art 36</b></p> <p>Add reference to Art 36 in title.</p> <p>It should be noted that if the ExA were to be persuaded that a different approach to arbitration to that provided for in current Art 36 was merited, consequential changes to the drafting of this Schedule may be required. The Applicant, IPs and Other Persons are requested to submit proposals for alternative drafting by Deadline 6, enabling comments at Deadline 7.</p>	This will be included in the Deadline 7 dDCO	
38.	Schedule 10	[None]	<p><b>Applications made under Requirements</b></p>	This list was updated in the Deadline 6 dDCO.	Where an application has been made to a discharging

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			Update the list of requirements to match amended Art 37(2).		authority for any agreement or approval required pursuant to <i>requirements 9, 11, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28 and 29</i> <del>7, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 30</del> in Part 3 of Schedule 1 (requirements) of this Order
39.	Schedules 11 and 12 (Deemed Marine Licences)	[None]	<p><b>DMLs: (formatting generally)</b></p> <p>Further to comment 2, a substantial number of sub-paragraphs with lower case Roman numerals (i) etc. appear to be out of SI template format and require review and format correction.</p>	The template formatting was updated for Deadline 6 and a validated DCO will be submitted at Deadline 7.	Formatting amendments made.
40.	Schedules 11 and 12 (Deemed Marine Licences)	[None]	<p><b>DML security for offshore design parameters</b></p> <p>The MMO [REP5A-003] has raised the possible need to set the offshore design parameters out on the face of the DML. This approach is justified as providing a 'one stop shop' for MMO staff, enabling them to find relevant provisions within the body of each DML, rather than having to go to other sources (including the balance of the DCO) and is argued to be consistent with the approach taken to Marine</p>	<p>This Question was addressed in response to Q2.4.7 in Appendix 23 [REP6-032]</p> <p>The Applicant has discussed this position directly with the MMO and now understands, contrary to previous submissions made, that the MMO is not suggesting that the parameters document (Annex D and appended to the Explanatory Memorandum) should be</p>	No amendments proposed.

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			<p>Licences that are granted directed under MACAA2009 (as distinct from DMLs). Consistency of form is viewed as important to ensure that relevant staff and stakeholders know how to navigate and apply the provisions of the DML.</p> <p>The Applicant is asked to set out a final position on this matter, taking account of established DML drafting practice, by Deadline 6. In particular, the Applicant should explain the reasons why it is appropriate and necessary to take a different approach to that which the MMO has identified as being its standard marine licencing approach in this case.</p> <p>The MMO may comment by Deadline 7.</p>	<p>transposed across in its entirety into the DMLs. Rather, certain key parameters are required to be on the face of the DML and this is the issue in contention between both parties. Namely, in addition to the parameters already provided in the DMLs, the MMO wish to see hammer energy and certain disposal and cable protection footprints. It is the Applicant's position, for the reasons identified in response to ExQ3 that it is not necessary to explicitly label all construction methods and parameters in the DMLs.</p> <p>The DML generally requires the project to be carried out in accordance with the effects assessed in the environmental statement which, contrary to the MMO's response, does provide a limited degree of flexibility by allowing, for example, agreement of minor alterations in methodologies provided that they do not lead new</p>	

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				<p>or materially different effects.</p> <p>The submission of the project parameters provides a clear record for the MMO of those assessed, so that it can easily be determined whether a plan submitted for approval was outwith parameters assessed, it would then be within the MMO's authority to consider whether this would then lead to new or materially different environmental effects or whether a minor deviation from a methodology assessed in the ES was acceptable, without the need to apply for a variation to the DML which would be more onerous for both the Applicant and the MMO.</p>	
41.	Schedules 11 and 12 (Deemed Marine Licences)	[None]	<p><b>'Handshake' between offshore and onshore archaeological written scheme of investigation</b></p> <p>The interface between the maritime and terrestrial historic</p>	The Applicant will provide a response at Deadline 7.	No Amendments proposed.



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			<p>environment in extensive intertidal salt marsh is complex. Is there any need for additional provisions onshore to join the MMO as a consultee prior to approval of the onshore written scheme of investigation (WSI) and to join relevant terrestrial stakeholders as consultees prior to approval of the offshore WSI?</p> <p>Comments are sought from all relevant IPs at Deadline 6 with final drafting (if required) from the Applicant at Deadline 7.</p>		