

Natural England advice on cable protection assessment for offshore windfarms and inclusion in marine licenses

Natural England (NE) has drafted this note in order to provide clarity on how we consider cable protection to be covered in marine licences, and what information needs to be provided in an assessment to support those licences. The advice applies to all marine license applications for cable protection, at various stages of the project lifecycle, not just those considered under the NSIP consenting process. Much of the advice is also applicable to interconnector cables. This is intended to complement the Marine Management Organisation's (MMO) position on scour and cable protection licensing requirements during the Operation and Maintenance (O&M) phase.

Section 1: Application stage

In the Environmental Statement (ES) for a project there must be a full assessment of the worst case scenario for cable protection to enable a decision to be made regarding the impacts of a project over the lifetime and in combination with other impacts and activities. In the case of European Marine sites (SACs and SPAs) the assessment must contain sufficient information to allow it to be ascertained (by the process of "appropriate assessment,"¹ and beyond reasonable scientific doubt) whether or not the project will have an adverse effect on the integrity of the site. If an absence of adverse effect on integrity cannot be demonstrated – see footnote 2.

It is acknowledged that the worst case scenario used for lifetime predictions is not the most desirable environmentally and, as more project specifics and environmental data emerge post-consent, the structure of plans and proposals can be amended to allow for the impacts to be reduced. This is in line with the avoid-reduce-mitigate hierarchy, which should be followed in relation to environmental impacts.

Not everything that is assessed in the Environmental Statement is permitted through the Deemed Marine Licence (DML) for the project, as some aspects require further updating and consultation (i.e. requirement to provide a scour and cable protection installation plan pre-construction, which sets out what is actually permitted). However, provision of the full project lifecycle information in the Environmental Statement at this stage is required to inform and support the decision making for the project and to provide a level of comfort that the lifetime impacts have been considered.

Where cable protection is proposed within an SAC or SPA it should be assumed that there will be a likely significant effect due to lasting habitat loss from the cable protection and an "appropriate assessment" would need to demonstrate that there would not be an adverse effect from the proposal. This is likely to be challenging in an SAC designated for its benthic habitats, therefore all alternatives will need to be fully explored. If it is not possible to avoid an adverse effect then the derogations route under Article 6(4) of the Habitats Directive²

¹ Regulation 28 of the Conservation of Offshore Marine Habitats and Species Regulations 2017

² If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01992L0043-20130701&from=EN>

could be considered. Similarly a Marine Conservation Zone (MCZ) assessment would be requirement where cable protection was proposed in an MCZ. For clarity and to fit with subsequent marine licensing requirements, Natural England advise that this information should be presented separately for the following phases with the impacts assessed for each phase and together in total:

- Amount of cable protection to be laid during the construction phase³ of the project.
- Amount of cable protection required for the maintenance of that laid during construction over the life time of the project.
- Amount of additional/ new cable protection that may be required to protect assets that become exposed during operation of the windfarm.
- Total amount of cable protection to be left in situ at the time of decommissioning (this may be the total of the above).

For cable protection to be laid during construction under the DML, an in principle scour and cable protection plan should be provided as part of the application. This should be updated and resubmitted pre-construction and should reflect up to date information informed by any new survey data, the cable burial risk assessment and additional information in relation to a navigation risk assessment and alternatives. Use of cable protection which leads to lasting habitat loss should be the final consideration after other alternatives have been exhausted and must be minimised as much as possible to reduce environmental impacts.

Where impacts are within a Marine Protected Area (MPA⁴), the assessment should consider the total amounts of cable protection proposed to be laid across the phases outlined above as an area and percentage of the MPA feature to be impacted. The significance of the proposal then needs to be considered against the Conservation Objectives for the site. Natural England's position paper on 'Small Scale Losses' sets out what is required by the Applicant to demonstrate that there are no Adverse Effects on site Integrity (AEoI).

Natural England will advise that a condition should be applied to all DMLs with wording similar to that outlined below, which will require return of information in relation to the as-built scenario, including the location, volume, area and coordinates of the cable protection laid.

Not more than 4 months following completion of the construction phase of the authorised scheme, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection used for the authorised scheme.

(2) The report must include the following information—

(a) location of the cable protection;

(b) volume and area of cable protection; and

(c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

(3) For any subsequent deployments of cable protection following the completion of construction, the undertaker will provide an updated report as defined in (1) and (2) not more than 4 months following deployment of the cable protection.

³ The duration of the construction phase should be clearly defined. See Section 2

⁴ the MPA network consists of Marine Conservation Zones (MCZs), European Marine Sites (Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)) and Sites of Special Scientific Interest (SSSIs).

Section 2: Construction and maintenance

The period of construction finishes when developers notify the MMO of the end of construction. The cable protection laid during the period of construction is permitted under the DML and restricted to total volumes within the DML, although every effort should be made to minimise these volumes going into construction through the avoid-reduce-mitigate hierarchy.

As outlined above, the in principle scour and cable protection plan provided during the application phase should be updated and resubmitted pre-construction and should reflect up to date information informed by any new survey data, the cable burial risk assessment and additional information in relation to a navigation risk assessment and alternatives.

Natural England considers it is permissible to maintain cable protection that was placed at time of construction for the lifetime of the project through an Operations and Maintenance plan by adding additional cable protection to that which was laid during construction. We support the MMO's position that under an operations and maintenance plan submitted under the DCO maintenance material placement cannot exceed the seabed footprint of the cable protection laid during construction. As per the MMO's advice various timescales and information requirements will apply to these plans. A condition requiring return of information in relation to the as built scenario including the location, volume, area and coordinates of the cable protection laid should be secured as part of these plans.

Section 3: Operational phase

Natural England considers that any new/additional cable protection to be laid during the operational lifetime of the windfarm is not permitted under the DML and requires a separate marine licence. We acknowledge that there is a desire for longer term licences and support the MMO's position that 10 year licences can be considered for laying of additional cable protected in areas outside MPAs.

This is not to say that cable protection will not be permitted over the lifetime of the project (outwith MPAs); but a separate marine licence process (to that of the DCO/DML) is advised to ensure that proposals can be adequately assessed using up to date information on which to base the assessment (which may be several years after the Environmental Statement data was collected), and enable sufficient transparency of decision making and stakeholder consultation. Data less than 5 years old will be required to support laying of additional cable protection along with descriptions of the seabed habitat and information regarding what cable protection has been laid to date. Justification will need to be made as to why cable protection is necessary considering risk and alternatives and every effort made to minimise amounts required to reduce environmental impact.

The amount of cable protection proposed in the new licence application should not be more than that assessed overall in the ES and should ideally be reduced to reflect the reduction in parameters from the Rochdale Envelope. Any reduction in design parameter should be reflected in this licence e.g. decreased number of cables installed therefore proportionally less cable protection is permitted to reflect this.

Should the volumes proposed be greater than that assessed in the ES at the time of consenting then it will be necessary to redo the assessment for cable protection that was

undertaken in the ES with up to date information and parameters to inform the licence application.

Section 4: Cable protection within MPA during the operational phase of a project

Natural England advises that a precautionary approach is taken to cable protection within MPAs with each campaign of cable protection requiring a new marine licence along with a full assessment. This is for a number of reasons including that our understanding of impacts, the habitat that is there and its condition evolves over time as well as changes in law. Therefore each time further new cable protection is to be laid it will require a new assessment and an Appropriate Assessment or Marine Conservation Zone assessment.

Where further cable protection is proposed within an SAC or SPA during the operational phase of a project, it should be assumed that there will be a likely significant effect due to lasting habitat loss from the cable protection and an “appropriate assessment” would need to demonstrate that there would not be an adverse effect from the proposal. This is likely to be challenging in an SAC designated for its benthic habitats, therefore all alternatives will need to be fully explored. If it is not possible to avoid an adverse effect then the derogations route under Article 6(4) of the Habitats Directive (see footnote 2) could be considered. Similarly a Marine Conservation Zone (MCZ) assessment would be requirement where cable protection was proposed in an MCZ.