

# REPORT

## **Boston Alternative Energy Facility**

Schedule of changes to the Draft Development Consent Order

Client: Alternative Use Boston Projects Ltd.

Planning Inspectorate EN010095

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## Boston Alternative Energy Facility

### Schedule of Changes to the draft Development Consent Order

The documents summaries the proposed amendments to the dDCO which were submitted at Deadline 1 (19 October 2021). These amendments are to the version of the dDCO submitted as part of the Application (Document reference 2.1, APP-005). For ease of reference, text shown in red identifies insertion of new text, while text shown with a strike through are proposed for deletion. Text shown in green indicates where a provision has been moved elsewhere in the document.

No.	Provision	Suggested amendment	Explanation for change
1.	Article 2 – definition of “commence”	“commence” means beginning to carry out any material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or carried out for the purposes of the authorised development other <b>than</b> operations consisting of pre-construction ecological mitigation, <b>archaeological investigations</b> , environmental surveys and monitoring, investigations for the purpose of assessing ground conditions (including the making of trial boreholes), receipt and erection of construction plant and equipment, installation of construction compounds, erection of a footbridge, erection of temporary viewing structure, temporary car parking, erection of construction welfare facilities, erection of any temporary means of enclosure, the temporary display of site notices or contractors’ signage and notices and “commencement” and “commenced” are to be construed accordingly;	Correction  Archaeological investigations has been included within the definition of commence for clarity. The inclusion of archaeological investigations is consistent with the definitions of commence in a number of recently made DCOs including the A63 (Castle Street Improvement, Hull) Development Consent Order 2020 and the A585 Windy Harbour to Skippool

No.	Provision	Suggested amendment	Explanation for change
			Highway Development Consent Order 2020.
2.	Article 2 – definition of “electronic transmission”	<p>“electronic transmission” means a communication transmitted—</p> <p>(a) by means of an electronic communications network; or</p> <p>(b) by other means provided it is in an electronic form;</p> <p>and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the Communications Act 2003(a);</p> <p>Insert Footnote: “(a) 2003 c. 21”</p>	Added for consistency with other recently made DCOs.
3.	Article 2 – definition of “indicative generating system plans”	“indicative generating station plans” means the <del>plans document</del> of that description certified by the Secretary of State as the indicative generating station plans for the purposes of this Order under article 48 (certification of documents, etc.);	Correction
4.	Article 2 – definition of “indicative wharf plans”	“indicative wharf plans” means the <del>plans document</del> of that description certified by the Secretary of State as the indicative wharf plans for the purposes of this Order under article 48 (certification of documents, etc.);	Correction

No.	Provision	Suggested amendment	Explanation for change
5.	Article 2 – definition of “outline landscape and ecological mitigation strategy”	“outline landscape and ecological mitigation strategy” means the document of that description certified by the Secretary of State as the outline landscape and ecological mitigation strategy for the purposes of this Order under article 48 (certification of documents, etc.);	Provision moved into correct alphabetical order
6.		Insert defined term: ““outline marine mammal mitigation protocol” means the document of that description certified by the Secretary of State as the outline marine mammal mitigation protocol for the purposes of this Order under article 48 (certification of documents, etc.);”	This is a consequential change as a result of amendments to paragraph 17 of Schedule 9
7.	Article 2 – definition of “outline surface water drainage strategy”	Insert defined term: ““outline surface water drainage strategy” means the document of that description certified by the Secretary of State as the outline surface water drainage strategy for the purposes of this Order under article 48 (certification of documents, etc.);”	This is a consequential change as a result of amendments to paragraph 8 of Schedule 2
8.	Article 2 – definition of “relevant	“relevant planning authority” means the <del>Boston Borough Council and any successor to its functions in relation to land in its area</del> <b>planning authority for the area in which the land to which the provisions of this Order apply is situated;</b>	This change was requested by Lincolnshire County Council. This is the same wording as that used in the Wheelabrator Kemsley K3

No.	Provision	Suggested amendment	Explanation for change
	planning authority”		Generating Station Order 2021.
9.	Article 2 – definition of “statutory nature conservation body”	<p>Insert defined term: ““<b>statutory nature conservation body</b>” means the appropriate nature conservation body as defined in regulation 5 of the Conservation of Habitats and Species Regulations 2017<b>(b)</b>;”</p> <p>Insert Footnote: “<b>(b)</b> S.I. 2017/1012.”</p>	Natural England requested this amendment in its relevant representation and the proposed change reflects that request.
10.	Article 2(9)	(9) References to any statutory body <b>in this Order</b> include <del>that any</del> body’s successor in respect of functions which are relevant to this Order.	Correction
11.	Article 7(1)(c)	<p>(c) in respect of any boundary between the areas of two numbered works deviate laterally by 20 metres either side of the boundary as shown on the works plans, <b>with the exception of any boundary with Work No. 1A(iv), any boundary with Work No. 2(d) and any boundary with Work No. 4,</b></p> <p>except that these maximum limits of deviation do not apply where it is demonstrated by the undertaker to the Secretary of State’s satisfaction and the Secretary of State, following consultation by the undertaker with the relevant planning authority, <b>the relevant statutory nature conservation body and the Environment Agency to the extent that it relates to matters relevant to their functions,</b> certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p>	The text added to sub-paragraph (c) of Article 7(1) ensures the location of the emissions stacks for the energy recovery facility and lightweight aggregate manufacturing facility and wharf are fixed in the locations shown on the works plans.

No.	Provision	Suggested amendment	Explanation for change
			The wording of the exception in paragraph (1) of Article (7) is identical to article 6(2) of the M42 Junction 6 Development Consent Order 2020. Notwithstanding this, the Applicant has amended Article 7 to require consultation with the Environment Agency and the relevant statutory nature conservation body in line with requests from the Environment Agency and Natural England in their relevant representations.
12.	Article 14(3)	(3) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 ( <del>determination of questions of disputed compensation</del> ) of the 1961 Act.	Correction
13.	Article 15(1)(c)	(c) with the approval of the relevant planning authority <del>ies</del> after consultation with the highway authority, form and lay out such other means of access or improve the existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.	Correction
14.	Article 19(1)(e)	(e) interfere with the navigation of <del>the any</del> relevant navigation or watercourse,	Correction

No.	Provision	Suggested amendment	Explanation for change
15.	Article 28(7)	(7) If any such agreement as is referred to in paragraph <del>(6Z)</del> (b)—	Correction
16.	Article 37(1)	(1) Where a street is stopped up under article 14 (permanent stopping up of streets), any statutory <del>utility undertaker</del> <b>utility</b> whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.	Correction
17.	Article 37(2)	(2) Where a street is stopped up under article 13 (temporary <del>closure, alteration, diversion and prohibition or</del> <b>closure, alteration, diversion and prohibition or</b> restriction of use of streets) any statutory utility whose apparatus is under, in, on over, along or across the street may, and if reasonably requested to do so by the undertaker must—	Correction
18.	Article 41(1)	<p>41.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction or maintenance of the authorised development—</p> <ul style="list-style-type: none"> <li>(a) sections 23 (prohibition of obstructions, etc. in watercourses), 30 (authorisation of drainage works in connection with a ditch) and 32 (variation of awards) of the Land Drainage Act 1991(a);</li> <li>(b) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991;</li> <li>(c) <del>the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the appropriate agency) to the Water Resources Act 1991(b);</del> and</li> <li>(d) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 (c) in respect of a flood risk activity only.</li> </ul> <p>Inserted footnote “(b) 1991 c. 57. Paragraph 5 was amended by section 100(1) and (2) of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the 2009 Act (c. 23), paragraphs 40 and 49 of Schedule 25 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c. 25), section 224 of, and paragraphs 20 and 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the 2009 Act and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995”</p>	<p>These bylaws were referred to in the explanatory memorandum but were inadvertently is not included in the dDCO. This amendment corrects this. The disapplication of bylaws made under paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the appropriate agency) to the Water Resources Act 1991 is consistent with a number of made DCOs including, Article 6 of the Riverside Energy Park Order 2020, article 3 of the Great Yarmouth Third</p>

No.	Provision	Suggested amendment	Explanation for change
			River Crossing Development and article 3 of the Lake Lothing (Lowestoft) Third Crossing Order 2020 Consent Order 2020. Protective provisions have been included for the benefit of the Environment Agency to protect its flood defences and the Applicant is engaging with the Environment Agency on these provisions.
19.	Article 47	<b>47.</b> The marine licence set out in Schedule 9 (deemed marine licence) is deemed to have been issued under Part 4 of the 2009 Act for the licensed activities set out in Part 1, and subject to the licence conditions set out in Part <del>42</del> , of that licence.	Correction
20.	Article 50	50.—(1) Except where otherwise expressly provided for in this Order and unless otherwise agreed in writing between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.  (2) <b>For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order will not be subject to arbitration.</b>	Added to address comments raised in the Marine Management Organisation's and Natural England's relevant representations. Wording in line with Article 37(2) of the Hornsea Three



No.	Provision	Suggested amendment	Explanation for change
			Offshore Wind Farm Order 2020.
21.	Schedule 1, Work No. 6, Requirement (d)	(d) a footbridge spanning <del>footpaths BOST/14/11 and BOST/14/9 along the Roman Bank</del> to allow safe pedestrian passage over certain site roads; and	Correction to refer to footpath numbers
22.	Schedule 2, Requirement 1(1)	<p><b>1.—(1) In this Schedule—</b></p> <p>“biodiversity units” means the product of the size of an area, and the distinctiveness and condition of the habitat it comprises to provide a measure of ecological value (as assessed using the Defra biodiversity off-setting metric);</p> <p>“biodiversity off-setting scheme” means a scheme which will deliver biodiversity enhancements which must not be less than the off-setting value;</p> <p>“Defra biodiversity off-setting metric” means the mechanism published by the Department for Environment, Food and Rural Affairs to quantify impacts on biodiversity, which allows biodiversity losses and gains affecting different habitats to be compared and ensures offsets are sufficient to compensate for residual losses of biodiversity;</p> <p>“habitat mitigation area” means the area shown on Figure 17.9 of the environmental statement; <del>and</del></p> <p>“heavy commercial vehicle” has the meaning given by section 138 (meaning of “heavy commercial vehicle”) of the Road Traffic Regulation Act 1984(a);</p> <p>“off-setting value” means the net biodiversity impact of the authorised development, calculated using the Defra biodiversity off-setting metric, measured in biodiversity units; <del>and</del></p> <p>“wharf outage” means circumstances caused by factors beyond the undertaker’s control in which waste, clay or sediment has not or could not be received at Work No. 4 for a period in excess of four consecutive days.</p> <p>Insert footnote: “(a) 1984 c. 27.”</p>	Consequential change as a result of addition of Requirement 18 to address comments raised in Lincolnshire County Council’s relevant representation.

No.	Provision	Suggested amendment	Explanation for change																								
23.	Schedule 2, Requirement 2	<p><b>2.—</b>(1) The authorised development must not commence after the expiry of five years from the date on which this Order comes into force.</p> <p><b>(2) The authorised development must not commence unless the undertaker has given the relevant planning authority one month’s notice of its intention to commence the authorised development.</b></p>	Added to address comments raised in Boston Borough Council’s relevant representation.																								
24.	Schedule 2, Requirement 3(1)	<p><b>3.—</b>(1) The authorised development must be designed in detail and carried out in accordance with the design principles contained in the design and access statement and the preliminary scheme design shown on the indicative generating station plans and indicative wharf plans, unless otherwise agreed in writing by the relevant planning authority, <b>following consultation with the Environment Agency to the extent that it relates to matters relevant to its function</b>, provided that the relevant planning authority is satisfied that any amendments to those documents showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p>	Added to address comments raised in the Environment Agency’s relevant representation.																								
25.	Schedule 2, Requirement 4	<p><b>4.</b> The elements of the authorised development listed in column (1) of the table below (design parameters) must not exceed the maximum dimensions and levels <b>and, where applicable, the minimum dimensions</b>, set out in relation to that element in columns (3) to (6) of that table.</p> <table border="1" data-bbox="477 962 1798 1353"> <thead> <tr> <th data-bbox="477 962 887 1190">(1) <i>Element of authorised development</i></th> <th data-bbox="891 962 1055 1190">(2) <i>Work No.</i></th> <th data-bbox="1059 962 1240 1190">(3) <i>Maximum length (metres)</i></th> <th data-bbox="1245 962 1426 1190">(4) <i>Maximum width (metres)</i></th> <th data-bbox="1431 962 1612 1190">(5) <i>Maximum height (metres) from ground level unless stated</i></th> <th data-bbox="1617 962 1798 1190">(6) <i>Minimum height (metres) from ground level unless stated</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="477 1193 887 1289">Main energy recovery facility buildings (3 No. units, dimensions per unit)</td> <td data-bbox="891 1193 1055 1289">1A</td> <td data-bbox="1059 1193 1240 1289">105</td> <td data-bbox="1245 1193 1426 1289">35</td> <td data-bbox="1431 1193 1612 1289">44</td> <td data-bbox="1617 1193 1798 1289">–</td> </tr> <tr> <td data-bbox="477 1292 887 1324">Energy recovery stacks (3 No.)</td> <td data-bbox="891 1292 1055 1324">1A(iv)</td> <td data-bbox="1059 1292 1240 1324">–</td> <td data-bbox="1245 1292 1426 1324">–</td> <td data-bbox="1431 1292 1612 1324">80</td> <td data-bbox="1617 1292 1798 1324">–</td> </tr> <tr> <td data-bbox="477 1327 887 1353">Turbine building</td> <td data-bbox="891 1327 1055 1353">1A(v)</td> <td data-bbox="1059 1327 1240 1353">55</td> <td data-bbox="1245 1327 1426 1353">40</td> <td data-bbox="1431 1327 1612 1353">20</td> <td data-bbox="1617 1327 1798 1353">–</td> </tr> </tbody> </table>	(1) <i>Element of authorised development</i>	(2) <i>Work No.</i>	(3) <i>Maximum length (metres)</i>	(4) <i>Maximum width (metres)</i>	(5) <i>Maximum height (metres) from ground level unless stated</i>	(6) <i>Minimum height (metres) from ground level unless stated</i>	Main energy recovery facility buildings (3 No. units, dimensions per unit)	1A	105	35	44	–	Energy recovery stacks (3 No.)	1A(iv)	–	–	80	–	Turbine building	1A(v)	55	40	20	–	Added to address comments raised in the Environment Agency’s relevant representation.
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No.	Provision	Suggested amendment						Explanation for change
		Air cooled condenser array	1A(vii)	65	45	30	-	
		Ash processing building	1B	70	30	32	-	
		Carbon dioxide recovery building	1C	30	20	12	-	
		Lightweight aggregates main building	2	75	40	44	-	
		Lightweight aggregates storage silos	2(a), 2(e)	6	6	25	-	
		Lightweight aggregates stacks (2 No.)	2(d)	-	-	80	-	
		Electrical substation	3	95	35	-	-	
		Wharf	4(a)	400	-	<del>- 7.2 (AOD)</del>	7.2 (AOD)	
		Supporting buildings and facilities (control room, visitor centre, workshops)	5	40	20	15	-	
26.	Schedule 2, Requirement 5(1)	<p><b>5.</b>—(1) No part of the authorised development may commence until a landscape and ecological mitigation strategy for that part has been submitted to and approved by the relevant planning authority, following consultation by the undertaker with the Environment Agency, <b>the relevant statutory nature conservation body</b> <del>Natural England</del>, Lincolnshire Wildlife Trust and the Royal Society for the Protection of Birds.</p>						Added to address comments raised in Natural England's relevant representation.
27.	Schedule 2, Requirement 6(1)	<p><b>6.</b>—(1) No part of Work Nos. 1, 2, 3, 4, 5 and 6 may commence until for that part a written scheme of investigation, reflecting the relevant mitigation measures set out in the outline written scheme of investigation has been submitted to and approved by the relevant planning authority, <b>following consultation by the undertaker with Historic England</b>.</p>						Added to address comments raised in Historic England relevant representation.
28.	Schedule 2, Requirement 8	<p><b>Surface and foul water drainage</b></p> <p><b>8.</b>—(1) No part of the authorised development may commence until for that part a surface water drainage strategy has been submitted to and approved by the relevant planning authority, following consultation with the</p>						Correction

No.	Provision	Suggested amendment	Explanation for change
		Environment Agency, lead local flood authority and relevant internal drainage board on matters related to their function.	
29.	Schedule 2, Requirement 8(2)	(2) The strategy submitted for approval <b>under sub-paragraph (1) must be substantially in accordance with the outline surface water drainage strategy information set out in the flood risk assessment.</b>	Updated to address comments made in the Black Sluice Internal Drainage Board relevant representation.
30.	Schedule 2, Requirement 8(3)	(3) The surface <b>and</b> water and drainage strategy must be implemented as approved under sub-paragraph (1) and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.	Correction.
31.	Schedule 2, Requirement 9	<p><b>Contamination Ground conditions and ground stability</b></p> <p><b>9.—(1) No part of the authorised development may commence until—</b></p> <p>(a) <b>intrusive geotechnical and geo-environmental phase ground investigations have been carried out for the purpose of assessing ground conditions; and</b></p> <p>(b) <b>a scheme to deal with the contamination of land, including groundwater, and ground gases which are likely to cause significant harm to persons or pollution of controlled waters or the environment, has, for that part, been submitted to and approved by the relevant planning authority.</b></p> <p><b>(2) The scheme must include a risk assessment, supported by site investigation data, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose.</b></p> <p><b>(3) With respect to ground gases, the risk assessment required under sub-paragraph (2) must adopt the source-pathway-receptor principle to identify plausible contaminant linkages and take into account potential migration of off-site ground gases.</b></p> <p><b>(4) The authorised development, including any remediation, must be carried out in accordance with the approved scheme unless otherwise agreed with the relevant planning authority.</b></p> <p><b>(5) Should any remediation be required a verification report demonstrating the completion of works set out in the approved scheme and the effectiveness of the remediation must be submitted to, and approved, by the relevant planning authority prior to the date of final commissioning.</b></p>	Amended for greater consistency with other recently made DCOs, and to address comments raised in the Environment Agency's relevant representation.

No.	Provision	Suggested amendment	Explanation for change
		<p>(6) <del>The verification report submitted under sub-paragraph (5) must include results of sampling and monitoring carried out in accordance with the remediation strategy to demonstrate that the site remediation criteria have been met along with any long-term post-remediation monitoring requirements.</del></p> <p>(2) <del>The ground investigations carried out pursuant to sub-paragraph (1) must be substantially in accordance with a sampling plan that sets out the approach to sampling to gather sufficient data to undertake a generic quantitative risk assessment as set out in chapter 11 (contaminated land, land use and hydrogeology) of the environmental statement and the outcomes of the ground investigations must be taken into account in the preparation of the code of construction practice submitted pursuant to paragraph 10.</del></p>	
32.	Schedule 2, Requirement 10(1)	<p><b>10.</b>—(1) No part of the authorised development may commence until a code of construction practice for that part has been submitted to and approved by the relevant planning authority, <del>following consultation with the Environment Agency and the relevant statutory nature conservation body to the extent that it relates to matters relevant to their function.</del></p>	Added to address comments raised in the Environment Agency's and Natural England's relevant representations
33.	Schedule 2, Requirement 10(3)	(3) The code of construction practice <del>submitted</del> under sub-paragraph (1) must include the following—	Correction
34.	Schedule 2, Requirement 10(3)(e)	(e) construction noise and vibration monitoring and management <del>measures</del> <b>plan</b> ;	Correction

No.	Provision	Suggested amendment	Explanation for change
35.	Schedule 2, Requirement 10(3)(j)	(j) a pollution prevention and incident response plan detailing measures to prevent and control the spillage of oil, chemicals and other potentially harmful liquids	Correction
36.	Schedule 2, Requirement 10(3)(n) to (o)	<p>Removed: (n) details of how the outcomes of the ground investigations carried out pursuant to paragraph 9 have been taken into account;</p> <p>Updated numbering:</p> <p><del>(e)</del>(n) measures to ensure the restoration of site following completion of construction; and</p> <p><del>(p)</del>(o) appropriate procedures to address any unexploded ordnance that may be encountered.</p>	Removed as amendments to paragraph 9 now include measures to address any contamination identified by the ground investigations.
37.	Schedule 2, Requirement 12(1)	No part of the authorised development may commence until a construction traffic management plan for that part has been submitted to and approved by the relevant planning authority, following consultation by the undertaker with the relevant highway authority).	Correction
38.	Schedule 2, Requirement 14	<p><b>Navigation management plan</b></p> <p><del>(1) No part of Work No. 4 may commence until for that part a navigation management plan has been submitted to and approved by the relevant planning authority, following consultation with the Port of Boston.</del></p> <p><del>(2) The navigation management plan must include details of—</del></p> <ul style="list-style-type: none"> <li><del>—(a) the construction timelines;</del></li> <li><del>—(b) the potential risks to navigation;</del></li> <li><del>—(c) communication measures;</del></li> <li><del>—(d) measures for managing potential risks to marine mammals;</del></li> </ul>	Moved to the deemed marine licence at the request of the Marine Management Organisation.

No.	Provision	Suggested amendment	Explanation for change
		<p><del>— (e) measures for managing potential biosecurity risks; and</del></p> <p><del>— (f) how each stage of the construction process will be managed to ensure a minimal impact on the safety of navigation in The Haven.</del></p> <p><del>(3) The navigation management plan must be implemented as approved by the relevant planning authority.</del></p>	
39.	Schedule 2, Requirement 15	<p><b>Operational lighting scheme</b></p> <p><del>15.— (1) No part of Work Nos. 1, 2, 3, 4 and 5 may commence until a written scheme for the management and mitigation of operational external artificial light emissions for that part has been submitted to and approved by the relevant planning authority.</del></p> <p><del>(2) The written scheme must be substantially in accordance with the outline lighting strategy.</del></p> <p><del>(3) The scheme for the management and mitigation of operational external artificial light emissions must be implemented as approved under sub-paragraph (1).</del></p>	Moved to Schedule 2, Requirement 16.
	Schedule 2, Requirement 14	<p><b>16.14.</b>—(7) No part of the authorised development may commence until a plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction and employment opportunities during operation of the authorised development has been submitted to and approved by the relevant planning authority, <b>following consultation by the undertaker with the Assistant Director Growth at Lincolnshire County Council.</b></p>	Renumbering as a result of earlier removals.  Added to address suggestions made by Lincolnshire County Council.
40.	Schedule 2, Requirement 16	<p><b>Operational lighting scheme</b></p> <p><del>15</del><b>16</b> (1) <b>Prior to the commissioning of any</b> <del>No part of Work Nos. 1, 2, 3, 4 and 5 may commence until a written scheme for the management and mitigation of operational external artificial light emissions for that part has been</del> <b>must be</b> submitted to and approved by the relevant planning authority.</p> <p>(2) The written scheme must be substantially in accordance with the outline lighting strategy.</p>	This requirement has been reordered as it is an operational requirement and amendments have been made to clarify that the

No.	Provision	Suggested amendment	Explanation for change
		(3) The scheme for the management and mitigation of operational external artificial light emissions must be implemented as approved under sub-paragraph (1).	operational lighting scheme needs to be prepared prior to commissioning.
41.	Schedule 2, Requirement 17	<p>Insert requirement “<b>Operational vehicle movements</b></p> <p><b>17.—</b>(1) Waste must not be delivered by road to Work No. 1A save in the event of a wharf outage or in circumstances where, following consultation by the undertaker with the relevant highway authority, the relevant planning authority is satisfied that such delivery of waste by road would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p> <p>(2) Clay and sediment must not be delivered by road to Work No. 2 or lightweight aggregates exported by road from Work No. 2 save in the event of a wharf outage or in circumstances where, following consultation by the undertaker with the relevant highway authority, the relevant planning authority is satisfied that such delivery or export by road would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p> <p>(3) Prior to the date of final commissioning, the undertaker must submit to the relevant planning authority for approval an operational traffic management plan for that part, following consultation by the undertaker with the relevant highway authority.</p> <p>(4) The operational traffic management plan must include—</p> <ul style="list-style-type: none"> <li>(a) an operational worker travel plan that includes measures to encourage the use of sustainable modes of transport by employees;</li> <li>(b) measures to manage the routing and number of heavy commercial vehicles during operation;</li> <li>(c) measures to manage the routing and number of heavy commercial vehicles in the event of a wharf outage;</li> <li>(d) provision as to the responsibility for, and timescales of, the implementation of those measures; and</li> <li>(e) a monitoring and review regime.</li> </ul> <p>(5) The operational traffic plan must be implemented as approved under sub-paragraph (1).”</p>	Added to address comments raised in Lincolnshire County Council’s relevant representation.



No.	Provision	Suggested amendment	Explanation for change
42.	Schedule 2, Requirement 18	(1) Prior to <b>the commissioning of any part of Work No. 1A</b> , the undertaker must submit to the relevant planning authority for approval a scheme, which sets out arrangements for maintenance of the waste hierarchy in priority order and which aims to minimise recyclable and reusable waste received at the authorised development during the commissioning and operational period of the authorised development (the “waste hierarchy scheme”).	Added for clarification.
43.	Schedule 2, Requirement 21	(1) On the date that is 12 months after the date of <b>final full</b> commissioning for Work No. 1A, the undertaker must submit to the relevant planning authority for its approval a report (“the CHP review”) updating the combined heat and power assessment	Correction
44.	Schedule 2, Requirement 27(4)	If the relevant planning <b>authority</b> does not give the notification within the period specified in sub-paragraph (2) or (3) it (and the consultee, as the case may be) is deemed to have sufficient information to consider the application and is not entitled to request further information without the prior agreement of the undertaker.	Correction
45.	Schedule 2, Requirement 28	<p>Insert requirement “<b>Fees</b></p> <p><b>28.—(1) Where an application is made to the relevant planning authority for written consent, agreement or approval in respect of a requirement, the fee prescribed under regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (as may be amended or replaced from time to time) is to apply and must be paid to the relevant planning authority for each application.</b></p> <p><b>(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of—</b></p> <ul style="list-style-type: none"> <li><b>(a) the application being rejected as invalidly made; or</b></li> <li><b>(b) the relevant planning authority failing to determine the application within the decision period as determined under paragraph 27(1),</b></li> </ul> <p><b>unless within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application.”</b></p>	Added to address comments raised in Boston Borough Council’s relevant representation.

No.	Provision	Suggested amendment	Explanation for change
		Insert Footnote: " <b>(a)</b> S.I. 2012/2920."	
46.	Schedule 2, Requirements 29 to 32, inclusive	Renumbering as follows: <b>Register of requirements</b> <del>28</del> <b>29.</b> <b>Appeals to the Secretary of State</b> <del>29</del> <b>30.</b> <b>Anticipatory steps towards compliance with any requirement</b> <del>30</del> <b>31.</b> <b>Interpretation of Part 2 of Schedule 2</b> <del>31</del> <b>32.</b>	
47.	Schedule 8	SCHEDULE 8                      Article 46 <del>3</del>	Correction

No.	Provision	Suggested amendment	Explanation for change
48.	Schedule 9, Part 1, paragraph 1  And various paragraphs throughout Schedule 9	<p>Remove definition <del>““licence holder” means Alternative Use Boston Projects Limited or any transferee under article 9 (consent to transfer of benefit of Order) of the Order;”</del></p> <p>Insert definition <b>““undertaker” means Alternative Use Boston Projects Limited or any transferee under article 9 (consent to transfer of benefit of Order) of the Order”</b></p> <p>Replace <del>“licence holder”</del> with <b>“undertaker”</b> throughout Schedule 9</p>	Added to address comments raised in the Marine Management Organisation’s relevant representation.
49.	Schedule 9, Part 1, paragraph 1	<p>Insert definition: <b>““maintenance dredging” means any activity which comprises the removal of recently accumulated sediments such as mud, sand and gravel in order to keep channels, berths and other areas at their designated depths and which takes place in circumstances where—</b></p> <p><b>(a) the level of the seabed to be restored by the dredging is not lower than it has been at any time during the past 10 years; and</b></p> <p><b>(b) there is evidence that dredging has previously been undertaken to that level (or lower) during that period;”</b></p>	Added for clarity. The definition used is consistent with that used in the Lake Lothing (Lowestoft) Third Crossing Order 2020.
50.	Schedule 9, Part 1, paragraph 1	<p>Insert definition: <b>““Marine Case Management System” or “MCMS” means the Marine Management Organisation’s online case management system;”</b></p>	Added at the suggestion of the Marine Management Organisation.
51.	Schedule 9, Part 1, paragraph 1,	<p><b>“Mean High Water Springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;</b></p>	Correction

No.	Provision	Suggested amendment	Explanation for change
	definition of Mean High Water Springs		
52.	Schedule 9, Part 1, paragraph 1, Definition of The Haven	"The Haven" means so much of The Haven, as is within the UK marine area;	Correction
53.	Schedule 9, Part 1, paragraph 2(3)	(3) Unless otherwise stated in writing by the MMO, all <del>notifications notices</del> required by this licence <del>must to be sent by the undertaker licence holder to the MMO using the MCMS</del> must be sent by email.	Added to address comments raised in the Marine Management Organisation's relevant representation.
54.	Schedule 9, Part 2, paragraph 5(1)(j)	(j) activities <del>within The Haven and within the Order limits</del> to— <del>(i) alter, clean, modify, dismantle, refurbish, reconstruct, remove, relocate or replace any work or structure;</del> Renumber remaining sub-sections (i) to (vi)	Added to address comments raised in the Marine Management Organisation's relevant representation.  Renumbering as a result of removal.

No.	Provision	Suggested amendment	Explanation for change
55.	Schedule 9, Part 2, paragraph 5(1)	Insert “(n) any other development within the meaning of section 32 (meaning of “development”) of the 2008 Act that is authorised by the Order; <b>but does not include the removal, relocation or detonation of ordinance.”</b>	Added to address comments raised in the Marine Management Organisation’s relevant representation.
56.	Schedule 9, Part 4	Remove paragraph “ <del>7. The conditions set out at paragraphs 7 to 20 of this Schedule are licence conditions.</del> ”  Renumber remaining sections <del>8. to 14.</del> inclusive as <b>7. to 13.</b>	Added to address comments raised in the Marine Management Organisation’s relevant representation.
57.	Schedule 9, Part 4, paragraph 9	<b>9.—</b> (1) The <del>licence holder</del> <b>undertaker</b> must notify the HM Coastguard (mail to: nmoccontroller@hmcg.gov.uk) prior to commencement of any licensed activities.  (2) <del>The MMO must be sent a</del> <b>A copy of the notice must be provided to the MMO via MCMS within 24 hours</b> <del>within 7 days of the issue the notification in sub-paragraph (1).</del>	Added to address comments raised in the Marine Management Organisation’s relevant representation.
58.	Schedule 9, Part 4, paragraph 10	<b>10.—</b> (1) The <del>licence holder</del> <b>undertaker</b> must ensure that local mariners and fishermen’s organisations are made fully aware of all licensed activities through a local notice to mariners issued at least 5 days before the commencement of the works.  (2) The notice to mariners must be updated and re-issued at fortnightly intervals during construction activities and within 5 days of any planned operations.  (3) <del>The MMO must be sent a</del> <b>A copy of the notice must be provided to the MMO via MCMS within 24 hours</b> <del>within 7 days of the issue of a notice under paragraphs (1) or (2).</del>	Added to address comments raised in the Marine Management Organisation’s relevant representation.

No.	Provision	Suggested amendment	Explanation for change
59.	Schedule 9, Part 4, paragraph 12	<p><b>12.</b>—(1) The <del>licence holder</del> <b>undertaker</b> must submit details of a licenced activity to the MMO for approval in accordance with the procedure in Part 5, following consultation with the harbour authority, at least 13 weeks prior to the commencement of the licenced activity <b>and licenced activities must not commence until written approval is provided by the MMO.</b></p> <p>(2) Unless otherwise agreed by the MMO in writing, the details in sub-paragraph (1) must include—</p> <ul style="list-style-type: none"> <li>(a) the details of the person responsible for the carrying on of the licensed activity;</li> <li>(b) a programme of works including the timings, duration and the location of the licensed activity;</li> <li>(c) the method statement to be employed by the licenced holder in carrying out the licenced activity <b>including details of the detailed dredging methodology to be employed by the undertaker;</b></li> <li>(d) contractor and vessel details;</li> <li>(e) plans and sections;</li> <li>(f) details of where the licensed activity was assessed in the Environmental Statement;</li> <li>(g) details of materials to be placed in or removed from the marine area;</li> <li>(h) environmental mitigation measures, which must be substantially in accordance with the measures set out in chapter 17 (marine and coastal ecology) of the environmental statement;</li> <li>(i) monitoring measures.</li> </ul> <p>(3) <b>Unless otherwise agreed by the MMO,</b> <del>the</del> licenced activity must be carried out in accordance with the approval of the MMO.</p>	Added to address comments raised in the Marine Management Organisation's relevant representation.
60.	Schedule 9, Part 4, paragraph 13	<p><b>13.</b>—(1) The <del>licence holder</del> <b>undertaker</b> must submit a piling method statement to the MMO for approval in accordance with the procedure in Part 5, following consultation with the Environment Agency, <b>the relevant statutory nature conservation body</b> <del>Natural England</del>, Lincolnshire Wildlife Trust and the Royal Society for the Protection of Birds, at least 13 weeks prior to the commencement of any operations consisting of piling <b>and piling operations must not commence until written approval is provided by the MMO.</b></p> <p>(2) Unless otherwise agreed by the MMO, the method statement must include the following—</p> <ul style="list-style-type: none"> <li>(a) the use of pile pads and pile shrouds at all times;</li> </ul>	Added to address comments raised in the Marine Management Organisation's relevant representation.

No.	Provision	Suggested amendment	Explanation for change
		<p>(b) soft start procedures to be followed <b>measures for managing potential risks to marine mammals in accordance with the maine mammal mitigation protocol approved under paragraph 17;</b></p> <p>(c) <del>marine mammal observation during high tide (within 100 metres of the pile being driven) and the cessation of piling while any marine mammals are within this zone;</del></p> <p>(d) details on the timing of piling activities throughout the year to <del>avoid the periods of maximum abundance of the sensitive species</del> <b>ensure they are undertaken during non-sensitive periods for overwintering birds (being May – September);</b></p> <p>(e) details of the anticipated spread of piling activity throughout a working day; and</p> <p>(f) monitoring measures.</p> <p>(3) <b>Unless otherwise agreed by the MMO,</b> <del>P</del>percussive piling must only be carried out in accordance with the relevant piling method statement.</p>	<p>(b) and (c) amended to refer to the marine mammal mitigation protocol approved under new condition 17.</p> <p>(d) Added to address comments raised in the Marine Management Organisation’s relevant representation.</p>
61.	Schedule 9, Part 4, Paragraph 14	<p style="text-align: center;"><i>Navigation management plan</i></p> <p><b>14.—</b><del>(1) No part of Work No. 4 may commence until for that part a</del> <b>The undertaker must submit a navigation management plan has been submitted to the MMO and approved by the relevant planning authority, for approval in accordance with the procedure in Part 5, following consultation with the Port of Boston harbour authority and the Environment Agency to the extent that it relates to matters relevant to its functions, at least 13 weeks prior to the commencement of any licenced activity.</b></p> <p><del>(2) The navigation management plan must include details of—</del></p> <p>(a) the construction timelines;</p> <p>(b) the potential risks to navigation;</p> <p>(c) communication measures;</p> <p>(d) <del>measures for managing potential risks to marine mammals</del> <b>in accordance with the marine mammal mitigation protocol approved under paragraph 17;</b></p> <p>(e) <del>measures for managing potential biosecurity risks; and</del></p>	<p>Added to address comments raised in the Environment Agency’s relevant representation.</p> <p>Moved to the deemed marine licence at the request of the Marine Management Organisation and consequential amendments for consistency with other conditions.</p>

No.	Provision	Suggested amendment	Explanation for change
		<p>(f) how each stage of the construction process and the operation of the authorised development will be managed to ensure a minimal impact on the safety of navigation in The Haven.</p> <p>(3) The undertaker must not commence the licenced activities until the MMO has approved in writing the submitted navigation management plan.</p> <p>(4) Unless otherwise agreed by the MMO, the navigation management plan must be implemented as approved by the relevant planning authority MMO.</p>	
62.	Schedule 9, Part 4, Paragraph 15	<p style="text-align: center;"><i>Marine archaeology</i></p> <p><b>15.—</b>(1) The undertaker must submit an archaeological written scheme of investigation (WSI) and protocol for archaeological discoveries (PAD) to the MMO for approval in accordance with the procedure in Part 5, at least 6 weeks prior to the commencement of any licenced activity with the potential to affect buried archaeological assets.</p> <p>(2) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted WSI and PAD.</p> <p>(3) Unless otherwise agreed by the MMO, all activities must adhere to the terms of the WSI and PAD.</p>	Added to address comments raised in the Marine Management Organisation's relevant representation.
63.	Schedule 9, Part 4, Paragraph 16	<p style="text-align: center;"><i>Marine pollution contingency plan</i></p> <p><b>16.—</b>(1) The undertaker must submit a marine pollution contingency plan to the MMO for approval in accordance with the procedure in Part 5, following consultation with the Environment Agency and the harbour authority, at least 13 weeks prior to the commencement of any construction activity.</p> <p>(2) The marine pollution contingency plan must set out the undertaker's assessment of the likely risks which could arise as a result of a spill or collision during construction and maintenance of the authorised development and the methods and procedures the undertaker intends to put in place to address those risks.</p> <p>(3) The undertaker must not commence the construction activities until the MMO has approved in writing the submitted marine pollution contingency plan.</p>	Added to address comments raised in the Marine Management Organisation's relevant representation.



No.	Provision	Suggested amendment	Explanation for change
64.	Schedule 9, Part 4, paragraph 17	<p style="text-align: center;"><i>Marine mammal mitigation protocol</i></p> <p><b>17.—(1)</b> The undertaker must submit a marine mammal mitigation protocol to the MMO for approval in accordance with the procedure in Part 5, following consultation with the relevant statutory nature conservation body and Lincolnshire Wildlife Trust, at least 13 weeks prior to the commencement of any licenced activity.</p> <p><b>(2)</b> The marine mammal mitigation protocol submitted for approval under sub-paragraph (1) must be in accordance with the outline marine mammal mitigation protocol.</p> <p><b>(3)</b> The undertaker must not commence the licenced activities until written approval is provided by the MMO under sub-paragraph (1).</p> <p><b>(4)</b> Unless otherwise agreed by the MMO, the marine mammal mitigation protocol must be implemented as approved by the MMO.</p>	An outline Marine Mammal Mitigation Protocol (document reference 9.12) has been submitted at Deadline 1 to consolidate the mitigation measures for marine mammals. The final protocol is secured by the new condition.
65.	Schedule 9, Part 4, paragraphs 18 to 23 and Schedule 9, Part 5, paragraphs 24 to 28	Renumbering as follows: <del>15</del> <b>18.</b> <del>16</del> <b>19.</b> <del>17</del> <b>20.</b> <del>18</del> <b>21.</b> <del>19</del> <b>22.</b> <del>20</del> <b>23.</b> <del>21</del> <b>24.</b> <del>22</del> <b>25.</b>	

No.	Provision	Suggested amendment	Explanation for change
		<p><del>23</del><b>26.</b></p> <p><del>24</del><b>27.</b></p>	
66.	Schedule 9, Part 5, paragraph 24	<p><del>21</del><b>24.</b> In this Part, “application” means a submission by the <del>licence holder</del> <b>undertaker</b> for approval of—</p> <p>(a) details of the licenced activity under paragraph <del>13</del><b>2</b>; and</p> <p>(b) a piling method statement under paragraph <del>14</del><b>3</b>;</p> <p><b>(c) a navigation management plan under paragraph 14;</b></p> <p><b>(d) an archaeological written scheme of investigation and protocol for archaeological discoveries under paragraph 15;</b></p> <p><b>(e) a marine pollution contingency plan under paragraph 16; and</b></p> <p><b>(f) a marine mammal mitigation protocol under paragraph 17.</b></p>	Renumbering as a result of earlier deletion, amendments and additions.
67.	Schedule 9, Part 5, paragraph 26(1)	<p><del>26.</del><b>26.</b>—(1) In determining the application the MMO may have regard to—</p> <p>(a) the application and any supporting information or documentation;</p> <p>(b) any further information provided by the <del>licence holder</del> <b>undertaker</b> in accordance with paragraph <del>25</del><b>5</b>; and</p> <p>(c) such matters as the MMO reasonably thinks are relevant.</p>	Renumbering as a result of earlier deletion
68.	Schedule 9, Part 5, paragraph 27(2)	<p>(2) Where the MMO has made a request under paragraph <del>22</del><b>5</b>, the MMO must give notice to the <del>licence holder</del> <b>undertaker</b> of the determination of the application within 13 weeks from the day immediately following that on which the further information is received by the MMO, or as soon as reasonably practicable after that date.</p>	Renumbering as a result of earlier deletion

No.	Provision	Suggested amendment	Explanation for change																																													
69.	Schedule 9, Part 6, paragraph 28(3)	(3) The MMO will grant the variation to this licence within 13 weeks from the day immediately following that on which the variation was requested, or as soon as reasonably practicable <b>after that date</b> , subject to the licence holder <b>undertaker</b> providing updated details of the licenced activity in accordance with paragraph 13 <del>2</del> and adequately justifying the requested variation to the reasonable satisfaction of the MMO.	Added for consistency with paragraph (23)  Renumbering as a result of earlier amendments																																													
70.	Schedule 10, Documents and Plans to be Certified, Flood risk assessment	<table border="1"> <thead> <tr> <th data-bbox="472 663 1115 767"><i>(1)</i> <i>Document name</i></th> <th data-bbox="1117 663 1397 767"><i>(2)</i> <i>Document reference</i></th> <th data-bbox="1400 663 1610 767"><i>(3)</i> <i>Revision number</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="472 770 1115 810">Access and rights of way plans</td> <td data-bbox="1117 770 1397 810">4.5</td> <td data-bbox="1400 770 1610 810">0.0</td> </tr> <tr> <td data-bbox="472 813 1115 853">Book of reference</td> <td data-bbox="1117 813 1397 853">3.3</td> <td data-bbox="1400 813 1610 853">0.0</td> </tr> <tr> <td data-bbox="472 857 1115 896">Combined heat and power assessment</td> <td data-bbox="1117 857 1397 896">5.7</td> <td data-bbox="1400 857 1610 896">0.0</td> </tr> <tr> <td data-bbox="472 900 1115 940">Design and access statement</td> <td data-bbox="1117 900 1397 940">5.3</td> <td data-bbox="1400 900 1610 940">0.0</td> </tr> <tr> <td data-bbox="472 943 1115 1026">Environmental statement</td> <td data-bbox="1117 943 1397 1026">Volume 1, 6.2 Volume 2, 6.3 Volume 3, 6.4</td> <td data-bbox="1400 943 1610 1026">0.0</td> </tr> <tr> <td data-bbox="472 1029 1115 1069">Flood risk assessment</td> <td data-bbox="1117 1029 1397 1069">6.4.1+<b>3</b></td> <td data-bbox="1400 1029 1610 1069">0.0</td> </tr> <tr> <td data-bbox="472 1072 1115 1112">Indicative generating station plans</td> <td data-bbox="1117 1072 1397 1112">4.9</td> <td data-bbox="1400 1072 1610 1112">0.0</td> </tr> <tr> <td data-bbox="472 1115 1115 1155">Indicative wharf plans</td> <td data-bbox="1117 1115 1397 1155">4.11</td> <td data-bbox="1400 1115 1610 1155">0.0</td> </tr> <tr> <td data-bbox="472 1158 1115 1198">Land plan and Crown land plan</td> <td data-bbox="1117 1158 1397 1198">4.2</td> <td data-bbox="1400 1158 1610 1198">0.0</td> </tr> <tr> <td data-bbox="472 1201 1115 1241">Outline landscape and ecological mitigation strategy</td> <td data-bbox="1117 1201 1397 1241">7.4</td> <td data-bbox="1400 1201 1610 1241">0.0</td> </tr> <tr> <td data-bbox="472 1244 1115 1284">Outline code of construction practice</td> <td data-bbox="1117 1244 1397 1284">7.1</td> <td data-bbox="1400 1244 1610 1284">0.0</td> </tr> <tr> <td data-bbox="472 1287 1115 1327">Outline construction traffic management plan</td> <td data-bbox="1117 1287 1397 1327">7.2</td> <td data-bbox="1400 1287 1610 1327">0.0</td> </tr> <tr> <td data-bbox="472 1331 1115 1370">Outline lighting strategy</td> <td data-bbox="1117 1331 1397 1370">7.5</td> <td data-bbox="1400 1331 1610 1370">0.0</td> </tr> <tr> <td data-bbox="472 1374 1115 1414"><b>Outline marine mammal mitigation protocol</b></td> <td data-bbox="1117 1374 1397 1414"><b>9.12</b></td> <td data-bbox="1400 1374 1610 1414"><b>0.0</b></td> </tr> </tbody> </table>	<i>(1)</i> <i>Document name</i>	<i>(2)</i> <i>Document reference</i>	<i>(3)</i> <i>Revision number</i>	Access and rights of way plans	4.5	0.0	Book of reference	3.3	0.0	Combined heat and power assessment	5.7	0.0	Design and access statement	5.3	0.0	Environmental statement	Volume 1, 6.2 Volume 2, 6.3 Volume 3, 6.4	0.0	Flood risk assessment	6.4.1+ <b>3</b>	0.0	Indicative generating station plans	4.9	0.0	Indicative wharf plans	4.11	0.0	Land plan and Crown land plan	4.2	0.0	Outline landscape and ecological mitigation strategy	7.4	0.0	Outline code of construction practice	7.1	0.0	Outline construction traffic management plan	7.2	0.0	Outline lighting strategy	7.5	0.0	<b>Outline marine mammal mitigation protocol</b>	<b>9.12</b>	<b>0.0</b>	Corrections and revision updates.
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No.	Provision	Suggested amendment			Explanation for change
		Outline surface water management plan	9.4	0.0	
		Outline written scheme of investigation	7.3	<del>0.0</del> 1.0	
		Works plans	4.3	0.0	