

REPORT

Boston Alternative Energy Facility

Schedule of Changes to the draft Development Consent Order

Client: Alternative Use Boston Projects Ltd

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Boston Alternative Energy Facility

Schedule of Changes to the draft Development Consent Order

The documents summarises the proposed amendments to the dDCO which were submitted at Deadline 3 (6 December 2021). These amendments are to the version of the dDCO submitted at Deadline 1 (Document reference 2.1, REP1-003). 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 ‘navigation risk assessment’	Insert defined term – “ “navigation risk assessment” means the document of that description certified by the Secretary of State as the navigation risk assessment for the purposes of this Order under article 47 (certification of documents, etc.); ”	A reference to this will be added to the Navigation Management Plan condition in the Deemed Marine Licence.
2.	Article 2 – definition of ‘Order land’	“Order land” means the land shown on the land plan and Crown land plan which is within the limits of land to be acquired or used permanently or temporarily, Order limits and described in the book of reference;	This amendment is needed to make clear that compulsory acquisition powers only apply to the land the Applicant is acquiring on the land plans, not all land within the Order limits.
3.	Article 2 – definition of ‘outline surface water strategy’	“outline surface and foul 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 47 (certification of documents, etc.);	Added to address comments raised in the Environment Agency’s relevant representation (RR-013).

4.	Article 7(1)(c) – Limits of Deviation	(c) in respect of any boundary between the areas of two numbered works deviate laterally by up to 20 metres either side of the boundary as shown on the works plans, 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,	Added for clarity
5.	Article 29(1) – Power to override easements and other rights	29.— (1) Any authorised activity which takes place on land within the Order limits land (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—	This amendment is needed to make clear that that this power only applies to the land the Applicant is acquiring on the land plans, not all land within the Order limits.
6.	Article 33 – Rights under or over streets	Remove article: Rights under or over streets 33.—(1) The undertaker may enter upon, appropriate and use so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development or for any other purpose ancillary to the authorised development. (2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street. (3) Paragraph (2) is not to apply in relation to— (a) any subway or underground building; or	Removed as this power is not required.

		<p>(b) — any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.</p> <p>(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is to be entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.</p> <p>(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.</p> <p>Various renumbering of articles throughout the Order, including references to later articles, to reflect removal of Article 33.</p>	
7.	Article 33(9) and (10) – Temporary use of land for carrying out the authorised development	<p>(9) Subject to article 52 51 (no double recovery) nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).</p> <p>(10) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not precluded from acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) under article 32 (acquisition of subsoil or air-space only)—</p> <p>(—) — any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) under article 32 (acquisition of subsoil or air-space only); or</p>	<p>Renumbered to reflect removal of old Article 33.</p> <p>Removed reference to deleted old Article 33</p>

		() — article 33 (rights under or over streets).	
8.	Article 34(1) – Temporary use of land for maintaining the authorised development	35.34. —(1) Subject to paragraph (2), at any time during the maintenance period (as defined in paragraph (11)) relating to any part of the authorised development, the undertaker may— (a) enter on and take temporary possession of any land within the Order limits land if possession is reasonably required for the purpose of maintaining the authorised development; (b) enter on any land within the Order limits land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.	These amendments are needed to make clear that this power only applies to the land the Applicant is acquiring on the land plans, not all land within the Order limits.
9.	Article 52(2) – Guarantees in respect of payment of compensation	(2) The provisions are— (a) article 25 (compulsory acquisition of land); (b) article 28 (private rights); (c) — article 33 (rights under or over streets); (d) (c) article 34 33 (temporary use of land for carrying out the authorised development); (e) (d) article 35 34 (temporary use of land for maintaining the authorised development); and (f) (e) article 36 35 (statutory undertakers).	Renumbering to reflect removal of old Article 33
10	Schedule 1 – Definition of Work No. 3	Work No. 3 — Works to construct an electrical substation including on-site below ground trenches, ducting and jointing pits; and above ground structures including switchgear, and transformer, busbar sections, integrated protection scheme and uninterruptable power supplies; connection	Amended to include construction of the additional pylon referred to in the

		from power generation turbine facility (Work No 1A); construction of a new pylon ; and connection to 132kV pylon for export of power from the facility; and incoming connection point from the grid.	Electricity Grid Connection statement (document 5.6, APP-035), paragraph 1.4.1; Environmental Statement Chapter 5 (document 6.2.5, APP-043), paragraph 5.5.37; and Environmental Statement Chapter 9 (document 6.2.9, APP-047), paragraph 9.7.1.
11	Schedule 1 – Definition of Work No. 5	<p>Work No. 5 — Works to construct or install supporting buildings and facilities, including—</p> <ul style="list-style-type: none"> (a) diesel storage tanks; (b) a process effluent storage tank; (c) a demineralised water treatment plant; (d) fire water tank(s), pump room(s) and fire protection facilities; (e) control rooms; (f) administration block(s) including welfare facilities; (g) distributed control system; (h) workshop(s) and associated stores; (i) machinery storage facilities; (j) security gatehouses and barriers; 	Amendment required as the design has been refined to bring the current (power) in the connecting cables better aligned with industry norms.

		<ul style="list-style-type: none"> (k) weighbridges; (l) a heavy goods vehicle holding area; (m) storage for on-site mobile equipment (n) an external fuel container storage area; (o) visitor centre; (p) 3344kv transformers to distribute power from Work No. 3; and (q) emergency stand-by generator(s). 	
12	Schedule 2, paragraph 3 – Detailed design approval	<p>3.—(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, following consultation with the Environment Agency to the extent that it relates to matters relevant to its function, 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> <p>(2) Where amended details are approved by the relevant planning authority under sub-paragraph (1), those details are deemed to be substituted for the corresponding indicative generating station plans and indicative wharf plans the undertaker must make those amended details available in electronic form for inspection by members of the public.</p>	Correction

13	Schedule 2, Requirement 4 – Detailed design (appearance)	<p>Additional provision:</p> <p style="text-align: center;">Detailed design (appearance)</p> <p>4.—(1) In relation to any part of the authorised development comprised in Work Nos. 1, 2, 3, 4 and 5 no development of that part may commence until details of the external appearance, including the colour, materials and surface finishes, of all new permanent buildings and structures have been submitted to and approved by the relevant planning authority, following consultation with the Boston Borough Council.</p> <p>(2) The authorised development must be carried out in accordance with the approved details.</p> <p>Various renumbering of paragraphs throughout Schedule 2, including references to later articles, to reflect addition of new Requirement.</p>	<p>Added to address comments raised in Boston Borough Council’s relevant representation (RR-19).</p>												
14	Schedule 2, Requirement 5 – Parameters of authorised development	<p style="text-align: center;">Parameters of authorised development</p> <p>4.5. The elements of the authorised development listed in column (1) of the table below (design parameters) must not exceed the maximum dimensions and levels and, where applicable, the minimum dimensions, set out in relation to that element in columns (3) to (6) of that table.</p> <table border="1" data-bbox="542 999 1671 1300"> <thead> <tr> <th data-bbox="542 999 954 1300">(1) <i>Element of authorised development</i></th> <th data-bbox="954 999 1095 1300">(2) <i>Work No.</i></th> <th data-bbox="1095 999 1236 1300">(3) <i>Maximum length (metres)</i></th> <th data-bbox="1236 999 1377 1300">(4) <i>Maximum width (metres)</i></th> <th data-bbox="1377 999 1518 1300">(5) <i>Maximum height (metres) from ground level unless stated</i></th> <th data-bbox="1518 999 1671 1300">(6) <i>Minimum height (metres) from ground level unless stated</i></th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </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>							<p>Amendments made to respond to Examining Authority’s first written questions, see Applicant’s Comments on Examining Authority’s First Written Questions (ExQ1) (document reference 9.24, REP2-008).</p>
(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	80 –	
		Turbine building	1A(v)	5355	40	20	–	
		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	80 –	
		Electrical substation	3	95	35	–	–	
		Wharf	4(a)	400	–	–	7.2 (AOD)	
		Supporting buildings and facilities (control room, visitor centre, workshops)	5	40	20	15	–	
15	Schedule Requirement 2, 6(3)(e) – Landscape and ecological mitigation strategy	(e) certified copies of the completed legal agreements with the Environment Bank securing the site or sites identified in (d) and which demonstrate that the off-setting value will be paid to the Environment Bank within 10 days of approval of the landscape and ecological mitigation strategy to enable enactment of the biodiversity off-setting scheme and the biodiversity off-setting management and monitoring plan as approved in the landscape and ecological mitigation strategy; and						Correction

16	Schedule 2, Requirement 9 – Surface and foul water drainage	<p style="text-align: center;">Surface and foul water drainage</p> <p>8-9—(1) No part of the authorised development may commence until for that part a surface and foul water drainage strategy has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency, lead local flood authority and relevant internal drainage board on matters related to their function.</p> <p>(2) The strategy submitted for approval under sub-paragraph (1) must be substantially in accordance with the outline surface and foul water drainage strategy.</p> <p>(3) The surface and foul water 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.</p>	Amended to address comments in the Environment Agency's relevant representation (RR-013) and question 3.0.17 of the Examining Authority's First Written Questions (PD-008).
17	Schedule 2, Requirement 13(1) – Construction traffic management plan	<p>42-13—(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 and the relevant statutory nature conservation body in relation to any proposals under sub-paragraph (2)(d) only.</p>	Added to address Natural England's comments in its comments on the draft DCO and Schedule of Changes to the draft DCO (REP2-044).
18	Schedule 2, Requirement 13(3) – Construction traffic management plan	(3) The construction traffic management plan submitted pursuant to sub-paragraphs (1) and and (2) must be accompanied by a statement and associated junction appraisals (as defined in the outline construction traffic management plan) demonstrating how the likely construction traffic impacts identified in the environmental statement are addressed through the measures contained in the construction traffic management plan.	Correction

19	Schedule 2, Requirement 23 – Decommissioning	<p style="text-align: center;">Decommissioning</p> <p>22-23.—(1) Within 24 months of the permanent cessation of the operation of Work Nos. 1 and 2 details of a scheme for the restoration and aftercare of the land for Work Nos. 1, 2, 3, 4 (excluding any parts of Work No. 4 that are covered by the decommissioning plan approved under the deemed marine licence), 5 and 6 must be submitted to and approved by the relevant planning authority and in consultation with the Environment Agency in relation to the matters in sub-paragraph (3).</p> <p>(2) The scheme must include details of structures and buildings to be demolished or retained, details of the means of removal of materials following demolition, phasing of demolition and removal, details of restoration works and phasing thereof.</p> <p>(3) The scheme must also identify provision for the ongoing maintenance and aftercare of the habitat mitigation works contained within the habitat mitigation area, which will remain in situ to provide habitat for redshank and other bird species.—</p> <p>(a) — Work No. 4, which will remain in situ to maintain the appropriate level of flood defence; and</p> <p>(b) — the habitat mitigation works contained within the habitat mitigation area, which will remain in situ to provide habitat for redshank and other bird species.</p> <p>(5)(4) The scheme as approved under sub-paragraph (1) must be implemented in accordance with the phasing set out therein.</p>	Updated to clarify that only the flood defence structure of Work No. 4 will remain in situ after decommissioning.
20	Schedule 2, Requirement	(2) The undertaker must keep records for the purpose of demonstrating compliance with sub-paragraph (1) and make them available for inspection by the relevant planning authority upon the relevant planning authority giving reasonable written notice.	Added to address request from Lincolnshire County Council at Issue Specific

	25(2) – Energy generation cap		Hearing 1 into the Draft DCO.
21	Schedule 2, Requirement 26(2) – Tonnage caps	(2) The undertaker must keep records for the purpose of demonstrating compliance with subparagraph (1) and make them available for inspection by the relevant planning authority upon the relevant planning authority giving reasonable written notice.	
22	Schedule 3 – Streets subject to street works	(1) <i>Authority</i>	(2) <i>Streets subject to street works</i>
		Lincolnshire County Council	Nursery Road (private road)
		Boston Borough Council	Callen Road (private road)
			Bittern Way (private road)
23	Schedule 7 – Land of which Temporary Possession may be taken	(1) <i>Number of plot shown on land plan and Crown land plan</i>	(2) <i>Purpose for which temporary possession may be taken</i>
		3	Temporary use to facilitate construction for Work No. 7 and other development necessary for the authorised development that takes place within the Order land limits.
24	Schedule 8, Part 6	A new Part 6 of Schedule 8 has been added to include protective provisions for the benefit of Anglian Water.	Added to reflect protective provisions for the benefit of Anglian Water.

25	Schedule 9, Condition 1 – definition of ‘AOD’	Added definition: “AOD” means above ordnance datum;	Added to address comments in the Marine Management Organisation’s written representation (REP1-056).
26	Schedule 9, Condition 1 – definition of ‘commence’	“commence” means beginning to carry out any part of a licensed activity comprised in or carried out for the purposes of the authorised development other than operations consisting of pre-construction ecological mitigation, archaeological investigations, 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, erection of any temporary means of enclosure, the temporary display of site notices or contractors’ signage and notices and “commenced” and “commencement” are to be construed accordingly;	Added for consistency with the definition in the draft Order.
27	Schedule 9, Condition 1 – definition of ‘environmental information’	Added definition: “environmental information” means the Environmental Statement and any further information as defined in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(c) relating to the application for development consent in respect of the marine works; Added footnote: (c) S.I. 2017/572.	Added at the request of the Marine Management Organisation’s written representation (REP1-056).
28	Schedule 9, Condition 1 – definition of	Added definition: “environmental statement” means the document of that description certified by the Secretary of State as the environmental statement for the purposes of this Order under article 47 (certification of documents, etc.);	Added at the request of the Marine Management Organisation in its written representation (REP1-056)

	'environmental statement		
29	Schedule 9, Condition 1 – definition of 'harbour authority'	"harbour authority" means the Port of Boston Limited Authority ;	Correction
30	Schedule 9, Condition 1 – definition of 'Maritime and Coastguard Agency'	Added definition: "Maritime and Coastguard Agency" means the executive agency of the Department for Transport;	Added to address comments in the Marine Management Organisation's written representation (REP1-056).
31	Schedule 9, Condition 1 – definition of 'office hours'	Added definition: "office hours" means the period from 09:00 until 17:00 on any business day;	Amended at the request of the Marine Management Organisation in its written representation (REP1-056).
32	Schedule 9, Condition 1 – definition of 'The Haven'	"The Haven" means the part of the River Witham, known as The Haven so much of The Haven, as is within the UK marine area;	Correction

33	Schedule 9, Condition 1 of definition 'undertaker'	"undertaker" means Alternative Use Boston Projects Limited (company number 11013830, whose registered office is at 26 Church Street, Bishop's Stortford, Hertfordshire, England, CM23 2LY) or any transferee under article 9 (consent to transfer of benefit of Order) of the Order.	Correction
34	Schedule 9, Condition 2(1)(a)	(a) Marine Management Organisation, Marine Licensing Team, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH; Tel. – 0300 123 1032, Fax—0191 376 2684, Email – marine.consents@marinemanagement.org.uk or such replacement contact details as are notified to the undertaker in writing by the MMO;	Amended at the request of the Marine Management Organisation in its written representation (REP1-056).
35	Schedule 9, Part 2, paragraph 3(b)	(b) are not exempt from requiring a marine licence by virtue of any provision made under section 74 (exemption specified by order) of the 2009 Act.	Full stop added as correction
36	Schedule 9, Condition 4	Delete provision: 4. The activities set out in this Part may be carried out by the undertaker as if licenced under the 2009 Act.	Removed at the request of the Marine Management Organisation in its written representation
37	Schedule 9, Condition 4(1)	5.4. —(1) In this licence, "authorised development" means the construction, maintenance and operation of the following activities authorised in relation to the construction, maintenance and operation of Work No. 4 — (a) the construction of a suspended deck wharf structure, forming 7.2m AOD flood defence line wall, containing three berthing points and tie-in to the existing flood defence; (b) the creation by dredging, use and maintenance of a berthing pocket within the following parameters—	Amended to address comments in the Marine Management Organisation's written representation (REP1-056). Sub-paragraph (j) added to ensure the powers conferred by article 19(1) are approved

	<p>Table 1</p> <table border="1" data-bbox="539 379 1568 603"> <thead> <tr> <th><i>Dimension</i></th> <th><i>Parameter</i></th> </tr> </thead> <tbody> <tr> <td>Length</td> <td>570m ±5%</td> </tr> <tr> <td>Width</td> <td>110m ±5%</td> </tr> <tr> <td>Depth</td> <td>-3.5m OD ±5%</td> </tr> <tr> <td>Area to be dredged</td> <td>62,700 m²±10%</td> </tr> <tr> <td>Volume of material to be removed</td> <td>225,000m³±10%</td> </tr> </tbody> </table> <p>(c) the construction and maintenance of scour protection;</p> <p>(d) the construction of piles and pile caps within The Haven supporting piers and fendering;</p> <p>(e) the construction of fendering within The Haven;</p> <p>(f) the construction of a mooring within The Haven;</p> <p>(g) the implementation of appropriate lighting to ensure safe operation of the wharf;</p> <p>(h) the construction of a drainage system for the wharf;</p> <p>(i) the implementation of shore to ship power;</p> <p>(j) the powers conferred by article 19(1) (powers in relation to relevant navigations or watercourses);</p> <p>(k) for the purposes of, or in connection with, the construction, operation or maintenance of any of the works and other development mentioned above, ancillary or related development which does not give rise to any materially new or materially different effects than those assessed in the environmental statement, consisting of—</p>	<i>Dimension</i>	<i>Parameter</i>	Length	570m ±5%	Width	110m ±5%	Depth	-3.5m OD ±5%	Area to be dredged	62,700 m ² ±10%	Volume of material to be removed	225,000m ³ ±10%	<p>by the Deemed Marine Licence.</p>
<i>Dimension</i>	<i>Parameter</i>													
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Volume of material to be removed	225,000m ³ ±10%													

		<p>(j)(i) activities within The Haven and within the Order limits to—</p> <p>(i)(aa) carry out excavations and clearance, deepening, scouring, cleansing, dumping and pumping operations;</p> <p>(ii)(bb) use, appropriate, sell, deposit or otherwise dispose of any materials (including liquids but excluding any wreck within the meaning of the Merchant Shipping Act 1995()) obtained in carrying out any such operations;</p> <p>(iii)(cc) remove and relocate any vessel or structure sunk, stranded, abandoned, moored or left (whether lawfully or not);</p> <p>(iv)(dd) temporarily remove, alter, strengthen, interfere with, occupy and use the banks, bed, foreshore, waters and walls of The Haven;</p> <p>(v)(ee) construct, place and maintain works and structures; and</p> <p>(vi)(ff) provide lighting, signage and aids to navigation,</p> <p>(k)(ii) other works and development—</p> <p>(i)(aa) to provide or alter embankments, foundations, retaining walls, drainage works, outfalls, pollution control devices, pumping stations, culverts, wing walls, fire suppression system water tanks and associated plant and equipment, lighting and fencing;</p> <p>(ii)(bb) to alter the course of, or otherwise interfere with, navigable or non-navigable watercourses; and</p>	
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		<p>(iii)(cc) to provide works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, operation or maintenance of the authorised development;</p> <p>(i)(iii) such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance, operation or use of the authorised development, including—</p> <p>(i)(aa) maintenance dredging; and</p> <p>(ii)(bb) other works associated with the provision of ecological mitigation, or to mitigate any adverse effect of the construction, maintenance and operation of the works or to benefit or protect any person or premises affected by the construction, maintenance and operation of the works;</p> <p>(m)(iv) activities to carry out works and development of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the operation and maintenance of the authorised development; and</p> <p>(n)(l) any other development within the meaning of section 32 (meaning of “development”) of the 2008 Act that is authorised by the Order;</p> <p>but does not include the removal, relocation or detonation of ordinance.</p>	
38	Schedule 9, Part 3 – Enforcement	<p>Remove provision:</p> <p style="text-align: center;">PART 3</p> <p style="text-align: center;">ENFORCEMENT</p>	Removed at the request of the Marine Management Organisation in its written representation (REP1-056).

		6. Any breach of this licence does not constitute a breach of the Order but is subject to the enforcement regime in Chapter 3 of Part 4 of the 2009 Act.	
39	Schedule 9, Part 4, paragraph 7 – Conditions	<p style="text-align: center;">PART 4-3</p> <p style="text-align: center;">CONDITIONS</p> <p style="text-align: center;"><i>General conditions</i></p> <p>7. For such of the licensed marine activities that involve the construction, alteration or improvement of works in or over the sea or under the sea bed, the conditions below apply to any person who for the time being owns, occupies or enjoys any use of those works.</p>	Amended to address comments in the Marine Management Organisation's written representation (REP1-056).
40	Schedule 9, Condition 8 – Vessels	<p>Add provision:</p> <p style="text-align: center;"><i>Vessels Distribution of copies</i></p> <p>8.—(1) The MMO must be notified in writing of any vessel being used to carry on any licensed activity on behalf of the licence holder.</p> <p>(2) Such notification must be received by the MMO in writing not less than 24 hours before the commencement of the licensed activity.</p> <p>(3) Notification must include the master's name, vessel type, vessel IMO number and vessel owner or operating company.</p>	Added at the request of the Marine Management Organisation in its written representation (REP1-056).
41	Schedule 9, Condition 9	<p>Add provision:</p> <p>9. The undertaker must ensure that a copy of this licence and any subsequent revisions or amendments are provided to, read and understood by the masters of any vessel being used to</p>	Added at the request of the Marine Management Organisation in its written representation (REP1-056).

		carry on any licensed activity, and that a copy of this licence must be held on board any such vessel.	
42	Schedule 9, Condition 10 – agents / contractors / sub- contractors	<p style="text-align: center;"><i>Agents / contractors / sub-contractors</i></p> <p>10.—(1) The undertaker must provide the name, address and function in writing of any agents, contractors or sub-contractors that will carry on any licensed activity on behalf of the undertaker.</p> <p>(2) Such notification must be received by the MMO in writing not less than 24 hours before the commencement of the licensed activity.</p>	Added at the request of the Marine Management Organisation in its written representation (REP1-056).
43	Schedule 9, Condition 11	<p>11.The undertaker must ensure that a copy of this licence and any subsequent revisions or amendments is given to all agents, contractors and sub-contractors, as well as to all Masters of all vessels and transport managers involved has been provided to, read and understood by any that will be carrying out any licensed activity on behalf of the undertaker.</p> <p>(1) The undertaker must keep a copy of this license and any subsequent revisions or amendments available for inspection at its registered address and any site office location at or adjacent to a construction site.</p>	Amended to address comments in the Marine Management Organisation in its written representation (REP1-056).
44	Schedule 9, Condition 12 – Construction environmental management plan	<p style="text-align: center;"><i>Construction environmental management plan</i> Prior approval of Licenced Activities</p> <p>12.—(1) The undertaker must submit a construction and environmental management plan details of a licenced activity to the MMO for approval in accordance with the procedure in Part 5, following consultation with the harbour authority, the relevant statutory nature conservation body and the Environment Agency, at least 13 weeks prior to the commencement of the licenced activity and licensed activities must not commence until written approval is provided by the MMO.</p>	Amended to address comments in the Marine Management Organisation's written representation (REP1-056) and Deadline 2 submission (REP2-040) and Natural England's comments in its comments

		<p>(2) Unless otherwise agreed by the MMO in writing, the construction environmental management plan must include the following details in sub-paragraph (1) must include—</p> <p>(a) — the details of the person responsible for the carrying on of the licensed activity;</p> <p>(a) the detailed construction methodology to be employed by the undertaker in carrying out the construction activity;</p> <p>(b) a programme of works including—</p> <p style="padding-left: 20px;">(i) timings and durations, method of delivery of material to site and plant to be used during the works the timings, duration and the location of the licensed activity;</p> <p style="padding-left: 20px;">(ii) a plan for notifying the MMO of the commencement and cessation of activities and phases of activities;</p> <p style="padding-left: 20px;">(b)(iii) a plan for notifying the MMO of changes to the programme;</p> <p>(c) the detailed methodology for the excavation and subsequent management of any dredged material removed including—</p> <p style="padding-left: 20px;">(i) a sampling plan for assessing the level of contaminants in any dredged material and a monitoring and action plan in relation to the potential release of contaminants into the watercourse</p> <p style="padding-left: 20px;">(ii) details on the timing of dredging activities throughout the year to ensure they are undertaken during non-sensitive periods for juvenile fish (being July - February inclusive);</p>	<p>on the draft DCO and Schedule of Changes to the draft DCO (REP2-044).</p>
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		<p>(iii) provision that no dredged materials are to be disposed of at sea or in other waters otherwise than in accordance with a marine licence;</p> <p>(d) 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;</p> <p>(e)(e) a waste management and disposal plan;</p> <p>(c) — the method statement to be employed by the licenced holder in carrying out the licenced activity including details of the detailed dredging methodology to be employed by the undertaker</p> <p>(d) — contractor and vessel details;</p> <p>(e)(f) plans and sections;</p> <p>(f)(g) details of where the licensed activity was assessed in the eEnvironmental sStatement;</p> <p>(g)(h) for any details of materials to be placed in or removed from the marine area, information on the volume and size of materials, methods of placement and removal of materials, types of materials, source of materials and methods of disposal of materials;</p> <p>(h)(i) 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; and</p> <p>(i)(j) monitoring measures.</p> <p>(3) Unless otherwise agreed by the MMO, the licenced activity must be carried out in accordance with the approval of the MMO.</p>	
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45	Schedule 9, Condition 13 – Piling	<p>13.—(1) The undertaker must submit a piling method statement in writing to the MMO for approval in accordance with the procedure in Part 5, following consultation with the Environment Agency, the relevant statutory nature conservation body, 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 and piling operations must not commence until written approval is provided by the MMO.</p> <p>(2) Unless otherwise agreed by the MMO, the method statement must include the following—</p> <p>(a) the use of pile pads and pile shrouds at all times;</p> <p>(b) measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol approved under paragraph 17;</p> <p>(c)—</p> <p>(d)(c) details on the timing of piling activities throughout the year to ensure they are undertaken during non-sensitive periods for overwintering birds (being May – September);</p> <p>(e)(d) details of the anticipated spread of piling activity throughout a working day; and</p> <p>(f)(e) monitoring measures.</p> <p>(3) Unless otherwise agreed by the MMO, percussive piling must only be carried out in accordance with the relevant piling method statement as approved in writing by the MMO.</p>	Amended at the request of the Marine Management Organisation in its written representation (REP1-056).
46	Schedule 9, Condition 14 – Navigation management plan	<p style="text-align: center;"><i>Navigation management plan</i></p> <p>14.—(1) The undertaker must submit a navigation management plan to the MMO for approval in accordance with the procedure in Part 5, following consultation with the harbour authority and</p>	Amended in response to the Examining Authority's first written questions, see Applicant's Comments on

	<p>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.</p> <p>(2) (2) The navigation management plan submitted for approval under sub-paragraph (1) must be informed by the assessment of risks to navigational safety in the navigational risk assessment and be substantially in accordance with the recommendations as to the management of vessel movements on The Haven as set out in the navigation risk assessment.</p> <p>(4)(3) The navigation management plan must include details of—</p> <ul style="list-style-type: none"> (a) the construction timelines; (b) the potential risks to navigation; (e) communication measures; (d) measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol approved under paragraph 17 ; (e) measures for managing potential biosecurity risks; and (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 and ensure that any delay or interference that may be caused to vessels which may be using The Haven is minimised as far as reasonably practicable. <p>(2)(4) The undertaker must not commence the licenced activities until the MMO has approved in writing the submitted navigation management plan.</p> <p>(3)(5) Unless otherwise agreed by the MMO, the navigation management plan must be implemented as approved by the MMO .</p>	<p>Examining Authority's First Written Questions (ExQ1) (document reference 9.24, REP2-008).</p>
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47	Schedule 9, Condition 16 – Marine pollution contingency plan	<p style="text-align: center;"><i>Marine pollution contingency plan</i></p> <p>16.—(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 relevant statutory nature conservation body, 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—</p> <p>(a) 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; and</p> <p>(b) set out the undertaker’s assessment of the potential for litter derived from either vessels or from land based sources within the authorised development to enter the marine area and identify the management measures to be put in place.</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> <p>(4) Unless otherwise agreed by the MMO, the marine pollution contingency plan must be implemented as approved.</p>	<p>Added to address Natural England’s comments in its comments on the draft DCO and Schedule of Changes to the draft DCO (REP2-044) and in response to the Examining Authority’s first written questions, see Applicant’s Comments on Examining Authority’s First Written Questions (ExQ1) (document reference 9.24, REP2-008).</p>
48	Schedule 9, Condition 18 – concrete and waste	<p style="text-align: center;"><i>Concrete and cement</i></p> <p>18.—(1) Waste concrete, slurry or wash water from concrete or cement activities must not be discharged, intentionally or unintentionally, into the marine environment.</p>	<p>Amended at the request of the Marine Management Organisation in its written representation (REP1-056).</p>

		<p>(2) Concrete and cement mixing and washing areas must be contained and sited at least 10 metres from any watercourse or surface water drain.</p> <p>(3) The containment required under sub-paragraph (2) must be appropriate to the material and include bunding of 110% of the total volume of all reservoirs and containers.</p>	
49	Schedule 9, Condition 20(c) – Spills, etc	(c) store all waste in designated areas that are isolated from surface water drains and open water and are bunded to contain any spillage.	Amended at the request of the Marine Management Organisation in its written representation (REP1-056).
50	Schedule 9, Condition 22 – Dropped objects	<p style="text-align: center;"><i>Dropped objects</i></p> <p>22.—(1) All dropped objects must be reported to the harbour authority using the Dropped Object Procedure Form within six hours of the undertaker becoming aware of an incident.</p> <p>(2) The MMO Marine Licensing Team must receive a copy of this notification no later than 24 hours after submission.</p> <p>(2)(3) On receipt of the Dropped Object Procedure Form, the harbour authority or the MMO Marine Licensing Team may require relevant surveys to be carried out by the undertaker (such as side scan sonar), and the harbour authority may require obstructions to be removed from the seabed at the undertaker’s expense, if it is reasonable to do so.</p> <p>(3) The local MMO office must receive a copy of this notification no later than 24 hours after submission.</p>	Amended to address comments in the Marine Management Organisation’s written representation (REP1-056)
51	Schedule 9, Condition 23 –	<i>Bathymetric surveys</i>	Added to address comments in the Marine Management

	Bathymetric surveys	<p>23.—(1) Pre and post dredge bathymetrical surveys must be undertaken for each dredge campaign, and a report containing the survey results submitted to the MMO within 4 weeks of completion of each dredge campaign.</p> <p>(2) The pre-dredge bathymetrical survey must be undertaken within a 3 month period prior to each dredging campaign, and the post-dredge bathymetrical survey must be undertaken as soon as reasonably practicable and in any event within 1 week of completion of each dredging campaign.</p> <p>(3) The report containing the survey results must include—</p> <p>(a) an interpretation of the difference between the pre and post dredge survey results and a volume calculation; and</p> <p>(b) the survey results on a chart showing the licensed dredge area and dredge depth.</p>	Organisation's Deadline 2 submission (REP2-040).
52	Schedule 9, Condition 24 – Reporting of impact pile driving	<p style="text-align: center;"><i>Reporting of impact pile driving</i></p> <p>24.—(1) Only when driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry (MNR)—</p> <p>(a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements.</p> <p>(b) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements.</p>	Added at the request of the Marine Management Organisation in its written representation (REP1-056).

		<p>(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.</p> <p>(3) For the purpose of this condition—</p> <p>(a) “Marine Noise Registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;</p> <p>(b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.</p>	
53	Schedule 9, Condition 25 – Decommissioning	<p style="text-align: center;"><i>Decommissioning</i></p> <p>25.—(1) Within 24 months of the permanent cessation of the operation of Work No. 4, the undertaker must submit details of a scheme for the restoration and aftercare of the land for Work No. 4 (with the exception of the flood defence line wall which will remain in situ) to the MMO for approval in accordance with the procedure in Part 5.</p> <p>(2) The scheme must include details of structures and buildings to be demolished or retained, details of the means of removal of materials following demolition, phasing of demolition and removal, details of restoration works and phasing thereof.</p> <p>(3) Unless otherwise agreed by the MMO the scheme as approved under sub-paragraph (1) must be implemented in accordance with the phasing set out therein.</p>	Added to reflect that only the flood defences part of Work No. 4 will be retained after decommissioning and the rest of the works in the marine area will be decommissioned.
54	Schedule 9, Part 4 – Procedure for	<p>PART 54</p> <p>PROCEDURE FOR THE DISCHARGE OF CONDITIONS</p>	Renumbering updated to reflect removal of old Part 3

	the discharge of conditions		
55	Schedule 9, Condition 27 – meaning of ‘return’	<p>Meaning of “return application”</p> <p>24-27. In this Part, “return application” means a submission by the undertaker for approval of—</p> <p>(a) a construction environmental management plan details of the licenced activity under paragraph 12;</p> <p>(b) a piling method statement under paragraph 13;</p> <p>(c) a navigation management plan under paragraph 14;</p> <p>(d) an archaeological written scheme of investigation and protocol for archaeological discoveries under paragraph 15;</p> <p>(e) a marine pollution contingency plan under paragraph 16; and</p> <p>(f) a marine mammal mitigation protocol under paragraph 17; and</p> <p>(g) a decommissioning scheme under paragraph 25.</p>	Amended to reflect previous inclusion of a construction environmental management plan and a decommissioning scheme and to address comments in the Marine Management Organisation’s written representation (REP1-056).
56	Schedule 9, Condition 28 – Further information regarding return	<p><i>Further information regarding return application</i></p> <p>25-28.—(1) The MMO may request in writing such further information to be provided in writing from the undertaker as is necessary to enable the MMO to consider the return application.</p> <p>(2) If the MMO does not make a request under sub-paragraph (1) within 30 business days of the day immediately following that on which the return application is received by the MMO, it is deemed to have sufficient information to consider the return application and is not entitled to request further information after this date without the prior agreement of the undertaker.</p>	Amended to address comments in the Marine Management Organisation’s written representation (REP1-056).

57	Schedule 9, Condition 29 – Determination of returns	<p style="text-align: center;"><i>Determination of returns application</i></p> <p>26-29.—(1) In determining the return application the MMO may have regard to—</p> <ul style="list-style-type: none"> (a) the return application and any supporting information or documentation; (b) any further information provided by the undertaker in accordance with paragraph 2825; <p>and</p> <ul style="list-style-type: none"> (c) such matters as the MMO reasonably thinks are relevant. <p>(2) Having considered the return application the MMO must—</p> <ul style="list-style-type: none"> (a) grant the return application unconditionally; (b) grant the return application subject to conditions as the MMO thinks fit; or and (c) refuse the return application. <p>(3) In determining an return application, the MMO may discharge its obligations under sub-paragraph (2)(a), (b) or (c) separately in respect of a part of the return application only, where it is reasonable to do so.</p>	Amended to address comments in the Marine Management Organisation’s written representation (REP1-056).
58	Schedule 9, Condition 30 – Notice of determination	<p style="text-align: center;"><i>Notice of determination</i></p> <p>27-30.—(1) Subject to sub-paragraph (2) or (3), the MMO must give notice to the undertaker of the determination of the return application within 13 weeks from the day immediately following that on which the return application is received by the MMO, or as soon as reasonably practicable after that date.</p>	Amended to address comments in the Marine Management Organisation’s written representation (REP1-056).

		<p>(2) Where the MMO has made a request under paragraph 2825, the MMO must give notice to the undertaker of the determination of the return 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> <p>(3) Where the MMO determines it is not reasonably practicable to make a determination in accordance with sub-paragraphs (1) and (2) in 13 weeks, it must notify the undertaker as soon as reasonably practicable and provide confirmation in writing of the intended determination date.</p> <p>(4) Where the MMO refuses the return application the refusal notice must state the reasons for the refusal.</p>	
59	Schedule 9, Part 5	<p>PART 65</p> <p>CHANGES TO THE LICENCE</p>	Amended to address comments in the Marine Management Organisation's written representation (REP1-056).
60	Schedule 9, Condition 31	<p>28.31.—(1) In the event that the undertaker wishes to undertake the licensed activity contrary to the conditions of this licence, it must inform the MMO at the earliest opportunity and request a variation to the conditions of this licence.</p> <p>(2) The undertaker must not carry out any licensed activity contrary to the conditions of this licence until a variation to the licence has been approved by the MMO pursuant to its powers under section 72(3) of the 2009 Act.</p> <p>(3) The MMO must give notice of the determination of 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 after that date, subject to the undertaker providing an</p>	

		<p>updated construction environmental management plan details of the licenced activity in accordance with paragraph 12 and adequately justifying the requested variation to the reasonable satisfaction of the MMO.</p> <p>(4) Where the MMO determines it is not reasonably practicable to make a determination in accordance with sub-paragraph (3) in 13 weeks, it must notify the undertaker as soon as reasonably practicable and provide confirmation in writing of the intended determination date.</p>																																											
61	Schedule 10 – Documents and plans to be certified	<p style="text-align: center;">SCHEDULE 10</p> <p style="text-align: center;">Article 48 47</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;"><i>(1)</i> <i>Document name</i></th> <th style="text-align: center;"><i>(2)</i> <i>Document reference</i></th> <th style="text-align: center;"><i>(3)</i> <i>Revision number</i></th> </tr> </thead> <tbody> <tr> <td>Access and rights of way plans</td> <td>4.5</td> <td>0.0</td> </tr> <tr> <td>Book of reference</td> <td>3.3</td> <td>0.0</td> </tr> <tr> <td>Combined heat and power assessment</td> <td>5.7</td> <td>0.0</td> </tr> <tr> <td>Design and access statement</td> <td>5.3</td> <td>0.0</td> </tr> <tr> <td>Environmental statement</td> <td>Volume 1, 6.2 Volume 2, 6.3 Volume 3, 6.4</td> <td>0.0</td> </tr> <tr> <td>Flood risk assessment</td> <td>6.4.13</td> <td>0.0</td> </tr> <tr> <td>Indicative generating station plans</td> <td>4.9</td> <td>0.0</td> </tr> <tr> <td>Indicative wharf plans</td> <td>4.11</td> <td>0.0</td> </tr> <tr> <td>Land plan and Crown land plan</td> <td>4.2</td> <td>0.0</td> </tr> <tr> <td>Navigation risk assessment</td> <td>9.27</td> <td>0.0</td> </tr> <tr> <td>Outline landscape and ecological mitigation strategy</td> <td>7.4</td> <td>0.0</td> </tr> <tr> <td>Outline code of construction practice</td> <td>7.1</td> <td>0.0</td> </tr> <tr> <td>Outline construction traffic management plan</td> <td>7.2</td> <td>0.0</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	6.4.13	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	Navigation risk assessment	9.27	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	Added to reflect earlier amendments.
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		Outline lighting strategy	7.5	0.0	
		Outline marine mammal mitigation protocol	9.12	0.0	
		Outline surface and foul water drainage strategy	9.4	0.0	
		Outline written scheme of investigation	7.3	1.0	
		Works plans	4.3	0.0	