

REPORT

Boston Alternative Energy Facility

Schedule of Changes to the draft Development Consent Order

Client: Alternative Use Boston Projects Ltd

Planning Inspectorate Reference: EN010095

Document Reference: 9.67

Pursuant to: N/A

Reference: PB6934-BDB-ZZ-XX-RP-Z-4000

Status: Final/0.0

Date: 8 February 2022



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Schedule of Changes to the draft Development Consent Order

The documents summarises the proposed amendments to the dDCO which were submitted at Deadline 6 (8 February 2022). These amendments are to the version of the dDCO submitted at Deadline 3 (Document reference 2.1(2), REP3-003). 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 ‘OSGR’	Insert defined term – “OSGR” means Ordinance Survey Grid Reference;	Added to address comments from Lincolnshire County Council
2.	Article 2 – definition of “date of final commissioning”	“date of final commissioning” means the date on which the commissioning of Work No. 1A is completed as notified as such by the undertaker to the relevant planning authority pursuant to paragraph 204 of Schedule 2 (requirements);	Consequential amendments
3.	Article 2 – definition of “relevant planning authority”	<p>“relevant planning authority” means the planning authority for the area in which the land to which the provisions of this Order apply is situated</p> <p>(a) Lincolnshire County Council for the purposes of article 15 (access to works) and the following requirements in Schedule 2 (requirements) to this Order—</p> <ul style="list-style-type: none"> (i) requirement 7; (ii) requirement 8; (iii) requirement 9; (iv) requirement 13; 	Amended to address comments from Boston Borough Council and Lincolnshire County Council

		<ul style="list-style-type: none">(v) requirement 14;(vi) requirement 17;(vii) requirement 18;(viii) requirement 21;(ix) requirement 24; and(x) requirement 25. <p>(b) Boston Borough Council for the purposes of the following requirements in Schedule 2 to this Order—</p> <ul style="list-style-type: none">(i) requirement 3;(ii) requirement 4;(iii) requirement 6;(iv) requirement 10;(v) requirement 11;(vi) requirement 12;(vii) requirement 15;(viii) requirement 16;(ix) requirement 19;(x) requirement 22; and	
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		(xi) requirement 23.	
4.	Article 2 – definition of “relevant planning authorities”	Insert defined term – ““relevant planning authorities” means both Lincolnshire County Council and Boston Borough Council;”	Added for clarity
5.	Article 2(6)	(6) References in this Order to numbered works are references to the works numbered in Schedule 1 (authorised development).	Amended for clarity
6.	Article 8 – Benefit of this Order	<p>8.—(1) Subject to paragraphs (2) and (3) and article 9 (consent to transfer benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker.</p> <p>(2) Paragraph (1) does not apply to the works for which consent is granted by this Order for the express benefit of the owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.</p> <p>(3) Paragraph (1) does not apply to Work No. 3A for which the provisions of this Order have effect for the benefit of the undertaker and; Harlaxton Engineering Services Limited</p> <p>(3)(4) Paragraph (1) does not apply to Work No. 3B for which the provisions of this Order have effect for the benefit of the undertaker and Western Power Distribution Plc.</p>	Amended for clarity
7.	Article 9 (5) – Consent to transfer benefit of the Order	<p>Insert new sub-clause:</p> <p>(5) The Secretary of State must consult the MMO before giving consent to the transfer or grant to another person of the benefit of the provisions of the deemed marine license.</p>	Added to address comments from the Marine Management Organisation at Deadline 5.

8.	Article 9 (7), (8), (9)	<p>References updated:</p> <p>(6)(7) The notification referred to in paragraph (65) must state—</p> <p>(a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;</p> <p>(b) subject to paragraph (87), the date on which the transfer will take effect;</p> <p>(c) the powers to be transferred or granted;</p> <p>(d) pursuant to paragraph (3), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and</p> <p>(e) where relevant, a plan showing the works or areas to which the transfer or grant relates.</p> <p>(7)(8) The date specified under paragraph (76)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice.</p> <p>(8)(9) The notice given under paragraph (65) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.</p>	Consequential amendments
9.	Article 40(1) – Disapplication of legislative provisions, etc.	<p>40.—(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, operation or maintenance of the authorised development—</p>	Added for clarity
10	Article 53 – Offshore ornithology	<p>[Offshore ornithology compensation provisions]</p> <p>[53. Schedule 11 (ornithology compensation measures) to the Order has effect.]</p>	Added in response to Examining Authority's commentary on the draft

	compensation provisions		DCO. Please note this is included on a without prejudice basis should the Secretary of State decide there is an Adverse Effect on Integrity (AOEI). If no AOEI is found then this article and the corresponding schedule should be deleted.
11	Schedule 1 – definition of Work No. 3	<p>Work No. 3 — Works to construct an electrical substation—including</p> <p>(a) Work No. 3A—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 from power generation turbine facility (Work No 1A); and</p> <p>(b) Work No. 3B—construction of a new pylon; and connection to 132kV pylon for export of power from the facility; and incoming connection point from the grid.</p>	Amended for clarity
12	Schedule 1 – definition of Work No. 4	(a) 400m long wharf structure forming 7.2m A-O-D flood defence line containing up to three berthing points and scour protection;	Full stops removed at the request of the Marine Management Organisation in its submissions at Deadline 5.

13	Schedule 1 – definition of Work No. 6	(d) a footbridge on spanning Boston Public Footpath 14 footpaths BOST/14/11 and BOST/14/9 between OSGR TF3374542872 to OSGR TF3400742238 and OSGR TF3400742238 to OSGR TF3417242188 to allow safe pedestrian passage over certain site roads; and	Amended in accordance with a request from Lincolnshire County Council
14	Schedule 2 – Requirements – Paragraph 2(2) – Time limits	(2) The authorised development must not commence unless the undertaker has given the relevant planning authorities by one month's notice of its intention to commence the authorised development.	Amended for clarity
15	Schedule 2 – Requirements – Paragraph 4(1) – Detailed design (appearance)	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.	Consequential amendment as a result of amendments to definition of relevant planning authority
16	Schedule 2 – Requirements – Paragraph 7(2) – Archaeology	Insert new sub-paragraph: (2) The scheme approved under sub-paragraph (1) must— (a) identify areas where field work or a watching brief are required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found; and (b) detail the measures for post-field work processing, assessment analysis and reporting of the results of archaeological work and the deposition of the archive.	Added to address comments from Lincolnshire County Council at Deadline 3
17	Schedule 2 – Requirements – Paragraph 9 (1) –	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,	Added at the request of Anglian Water.

	Surface and foul water drainage	following consultation with the Environment Agency, lead local flood authority, Anglian Water Services Limited and relevant internal drainage board on matters related to their function.	
18	Schedule 2 – Requirements – Paragraph 13(1) – Construction traffic management plan	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, Boston Borough Council and the relevant statutory nature conservation body in relation to any proposals under sub-paragraph (2)(d) only.	Amended for clarity
19	Schedule 2 – Requirements – Paragraph 15	Remove Requirement: Community benefits 15.—(1) 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, following consultation by the undertaker with the Assistant Director Growth at Lincolnshire County Council. (2) The approved plan must be implemented and maintained during the construction and operation of the authorised development unless otherwise agreed with the relevant planning authority. Renumber subsequent paragraphs.	Deleted as arrangements for to promote employment, skills and training development opportunities will be secured via the section 106 agreement with Boston Borough Council
20	Schedule 2 – Requirements – Paragraph 17 – Operational	Insert new sub-section (1). Re-number subsequent sub-paragraphs. 17.18.—(1) Except in the event of a wharf outage, the number of two-way heavy commercial vehicle movements must not exceed a maximum of 30 two-way vehicle movements per day except	Added to address comments from Lincolnshire

	vehicle movements	<p>in circumstances where, following consultation by the undertaker with the relevant highway authority and Boston Borough Council, the relevant planning authority is satisfied that additional vehicle movements would not give rise to any materially new or materially different highway safety impacts or environmental effects in comparison with those reported in the environmental statement.</p> <p>(1)(2) Waste must not be delivered by road to Work No. 1A save except 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 and Boston Borough Council is satisfied that such delivery of waste by road would not give rise to any materially new or materially different highway safety impacts or environmental effects in comparison with those reported in the environmental statement.</p> <p>(2)(3) Clay and sediment must not be delivered by road to Work No. 2 or lightweight aggregates exported by road from Work No. 2 save except 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 and Boston Borough Council is satisfied that such delivery or export by road would not give rise to any materially new or materially different highway safety impacts or environmental effects in comparison with those reported in the environmental statement.</p> <p>(4) 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 and Boston Borough Council.</p>	County Council at Deadline 3
21	Schedule 2 – Requirements – Paragraph 20 – Notice of start of	<p>21.20.—(1) Where practicable, notice of the intended start of commissioning of Work No. 1A must be given to the relevant planning authorities y prior to such start and in any event within seven days from the date that commissioning is started.</p>	Amended for clarity

	commissioning and notice of date of final commissioning	(2) Within seven days of completing final commissioning of Work No. 1A, the undertaker must provide the relevant planning authorities with notice of the date upon which such commissioning was duly completed.	
22	Schedule 2 – Requirements – Paragraphs 21(1) and 21(4) – Combined heat and power	<p>22.21.—(1) On the date that is 12 months after the date of final commissioning for Work No. 1A, the undertaker must submit to the relevant planning authority for its approval, following consultation by the undertaker with Boston Borough Council, a report (“the CHP review”) updating the combined heat and power assessment.</p> <p>[...]</p> <p>(4) On each date during the operation of Work No. 1A that is five years after the date on which it last submitted the CHP review or a revised CHP review to the relevant planning authority, the undertaker must submit to the relevant planning authority for its approval a revised CHP review, following consultation by the undertaker with Boston Borough Council.</p>	Amended to address comments from Boston Borough Council and Lincolnshire County Council
23	Schedule 2 – Requirements – Paragraph 23(1) – Amendments to approved details	<p>24.23.—(1) With respect to the documents certified under article 47 (certification of documents, etc.), the parameters specified in the table in paragraph 4 and any other plans, details or schemes which require approval by the relevant planning authority pursuant to in accordance with any requirement (together “Approved Documents, Plans, Parameters, Details or Schemes”), the undertaker may submit to the relevant planning authority for approval, following consultation by the undertaker with Lincolnshire County Council, any amendments to the Approved Documents, Plans, Parameters, Details or Schemes and following any such approval by the relevant planning authority the Approved Documents, Plans, Parameters, Details or Schemes are to be taken to include the amendments approved by the relevant planning authority pursuant to in accordance with this paragraph.</p>	Correction

24	Schedule 2 – Requirements – Paragraph 25 – Electricity generation cap	<p>25.24.—(1) The authorised development must not generate more than 300 megawatts unless otherwise agreed by the relevant planning authority provided that the relevant planning authority is satisfied that any increase 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) The undertaker must keep records for the purpose of demonstrating compliance with sub-paragraph (1) and must submit them to the relevant planning authority on an annual basis.</p> <p>(2)(3) On receipt of a written request to view the records by the relevant planning authority these records must be made make them available for inspection within seven days of such a request by the relevant planning authority upon the relevant planning authority giving reasonable written notice.</p> <p>(3)(4) References in Schedule 1 (authorised development) to 300 megawatts are to be construed as references to any electricity cap approved under sub-paragraph (1).</p>	Added to address comments from Lincolnshire County Council at Deadline 3
25	Schedule 2 – Requirements – Paragraph 26 – Tonnage Caps	<p>26.25.—(1) The total amount of—</p> <p>(a) waste to be received at Work No. 1A and Work No. 4 must not exceed 1,200,000 tonnes per calendar year;</p> <p>(b) bottom ash and boiler ash processed at Work No. 1B must not exceed 200,000 tonnes per calendar year; and</p> <p>(c) aggregate to be processed at Work No. 2 and received at Work No. 4 must not exceed 300,000 tonnes per calendar year,</p>	Amended to address comments from Lincolnshire County Council at Deadline 3

		<p>unless otherwise agreed by the relevant planning authority provided that the relevant planning authority is satisfied that any increase 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) The undertaker must keep records for the purpose of demonstrating compliance with sub-paragraph (1) and must submit them to the relevant planning authority on an annual basis.</p> <p>(2)(3) On receipt of a written request to view the records by the relevant planning authority these records must be made make them available for inspection within seven days of such a request by the relevant planning authority upon the relevant planning authority giving reasonable written notice.</p> <p>(3)(4) References in Schedule 1 (authorised development) to any tonnage amount are to be construed as references to any tonnage amount approved under sub-paragraph (1).</p>	
26	<p>Schedule 2 – Requirements – Paragraph 26(1)(b) – Applications made under Part 1</p>	<p>(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 278 (further information); or</p>	Consequential amendment
27	<p>Schedule 2 – Requirements – Paragraph 28(2)(b) – Fees</p>	<p>(b) the relevant planning authority failing to determine the application within the decision period as determined under paragraph 267(1),</p>	Consequential amendment

28	Schedule 2 – Requirements – Paragraph 30 – Appeals to the Secretary of State	<p>31.30.—(1) The undertaker may appeal to the Secretary of State if—</p> <p>(a) the relevant planning authority refuses an application for any consent, agreement or approval required by—</p> <p>(i) a requirement and any document referred to in any requirement in Part 1 of this Schedule; or</p> <p>(ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;</p> <p>(b) the relevant authority does not give notice of its decision to the undertaker within the period specified in paragraph 267(1) or grants it subject to conditions;</p> <p>(c) having received a request for further information under paragraph 278(1) the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application;</p> <p>[...]</p> <p>(2) The appeal process applicable under sub-paragraph (1) is as follows—</p> <p>(a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the decision period as determined under paragraph 267;</p>		Consequential amendment
29	Schedule 5 – Temporary Closure, Alteration, Diversion and Restriction of the Use of Streets	<p>(1)</p> <p><i>Street subject to temporary prohibition or restriction of use</i></p>	<p>(2)</p> <p><i>Extent of temporary prohibition or restriction of use of streets</i></p>	Amended to address comments from Lincolnshire County Council
Boston Public Footpath 14 BOST/14/9		Length of footpath to be temporarily closed between the points marked TC2 (OSGR TF3400742238) to TC3 (OSGR TF3417242188) on the access and rights of way plan to install and facilitate the construction of Work No. 6(d).		

		Boston Public Footpath 14 BOST/14/11	Length of footpath to be temporarily closed between the points marked TC1 (OSGR TF3374542872) to TC2 (OSGR TF3400742238) on the access and rights of way plan to install and facilitate the construction of Work No. 6(d).	
30	Schedule 6 – Permanent stopping up of streets and public rights of way	(1) <i>Street Highway to be stopped up</i>	(2) <i>Extent of stopping up</i>	Amended to address comments from Lincolnshire County Council at Deadline 3
		Boston Public Footpath 14 BOST/14/4	Footpath to be stopped up between the points marked ST1 (OSGR TF3374542872) to ST3 (OSGR TF3411942384) on the access and rights of way plan.	
		Boston Public Footpath 14 BOST/14/10	Footpath to be stopped up between the points marked ST3 (OSGR TF3411942384) to ST4 (OSGR TF3400742238) on the access and rights of way plan.	
		Boston Public Footpath 14 BOST/14/5	Footpath to be stopped up between the points marked ST3 (OSGR TF3411942384) to ST2 (OSGR TF3417242188) on the access and rights of way plan.	
31	Schedule 8 – Protective Provisions – Paragraph 30	30. The following provisions shall apply for the protection of the Agency unless otherwise agreed in writing between the undertaker Applicant and the Agency.		Amendments to Part 4 of Schedule 8 are to reflect amendments agreed with the Environment Agency
32	Schedule 8 – Protective	31. In this Part of this Schedule— “the Agency” means the Environment Agency;		

	<p>Provisions Paragraph 31</p>	<p>– “the Applicant” means the undertaker or any transferee under article 8 of this Order;</p> <p>“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” is to shall be construed accordingly;</p> <p>“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;</p> <p>“existing permit” means any environmental permits, whether granted before or after the coming into force of this Order, or otherwise granted over the Order limits;</p> <p>“the fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;</p> <p>“main river” means all watercourses shown as such on the statutory main river maps held by the Agency and the Department for Environment Food and Rural Affairs including any structure or appliance for controlling or regulating the flow of water in or out of the channel;</p> <p>“permitted activity” means any work or operation which requires an environmental permit for waste operation in accordance with the Environmental Permitting (England and Wales) Regulations 2016(a);</p> <p>“plans” includes sections, drawings, specifications, calculations and method statements;</p> <p>“sea defence” means any bank, wall, embankment (and any berm, counterwall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the Agency’s area against flooding, but excludes any sea defence works which</p>	
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		<p>are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949(a) or by any local authority or any navigation, harbour or conservancy authority;</p> <p>Insert footnote:</p> <p>(a) 1949 c. 74</p> <p>"specified work" means so much of any work or operation authorised by this Order or otherwise as is for the purpose of or in connection with, the construction or maintenance of the authorised development as is in, on, under, over or within 8 metres of a drainage work or is otherwise likely to—</p> <p>(a) in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—</p> <p>(a)(i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;</p> <p>(b)(ii) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;</p> <p>(c)(iii) cause obstruction to the free passage of fish or damage to any fishery;</p> <p>(d)(iv) affect the conservation, distribution or use of water resources; or</p> <p>(v) affect the conservation value of the main river and habitats in its immediate vicinity;</p> <p>(b) in, on, under, over or within 16 metres of the base of a sea defence which is likely to—</p> <p>(i) endanger the stability of, cause damage to or reduce the effectiveness of that defence, or</p> <p>(ii) interfere with the Agency's access to or along that defence;</p>	
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		<p>(e)(c) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work; and</p> <p>(f) “waste operation” means recovery or disposal of waste, which for the avoidance of doubt includes landfill; and</p> <p>“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.</p>	
33	Schedule 8 – Protective Provisions Paragraph 32	<p>32.—(1) Before beginning to construct any specified work, the undertaker Applicant must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.</p> <p>(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 42.</p> <p>(3) Any approval of the Agency required under this paragraph—</p> <p>(a) must not be unreasonably withheld or delayed;</p> <p>(b) is deemed to have been refused given if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval;</p> <p>(c) in the case of a refusal, accompanied by a statement of the grounds of refusal; and</p> <p>(d) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.</p>	

		(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).	
34	Schedule 8 Protective Provisions Paragraph 33	<p>Removed provision:</p> <p>33.—(1) Before beginning to construct a permitted activity, the Applicant must submit the following details to the Agency for approval—</p> <p>(a) — such details as the Agency reasonably requires to grant consent for the permitted activity; and</p> <p>(b) — such other reasonable requirements of the Agency as agreed between the parties.</p> <p>(2) The permitted activity must be carried out in accordance with the approval of the Agency.</p> <p>(3) As from the date on which the authorised development is commenced any conditions of an existing permit granted under the Environmental Permitting (England and Wales) Regulations 2016(a) (or any predecessor regulations or enactment) which relate to land within the Order limits or land adjacent to the Order limits cease to have effect to the extent they are inconsistent with the authorised development or, in respect of a permitted activity, an approval under sub-paragraph (1).</p> <p>(4) Any approval of the Agency required under this paragraph—</p> <p>(a) — must not be unreasonably withheld or delayed;</p> <p>(b) — is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval; and</p> <p>(c) — in the case of a refusal, must be accompanied by a statement of the grounds of refusal.</p>	

		<p>(5) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (4)(b).</p> <p>Removed footnote (a):</p> <p>(a) S.I. 2016/1154.</p> <p>Updated paragraph numbers in subsequent paragraphs.</p>	
35	Schedule 8 – Protective Provisions – Paragraph 33	<p>34.33. Without limiting paragraph 32, the requirements which the Agency may have under that paragraph include conditions requiring the undertaker Applicant, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—</p>	
36	Schedule 8 – Protective Provisions – Paragraph 34	<p>35.34.— (1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 3433, must be constructed—</p> <p>(a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and</p> <p>(b) to the reasonable satisfaction of the Agency, and the Agency isshall be entitled by its officer to watch and inspect the construction of such works.</p> <p>(2) The undertaker Applicant must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.</p> <p>(3) If the Agency reasonably requires, the undertaker Applicant must construct all or part of the protective works so that they are in place prior to the construction of theany specified work to which the protective works relate.</p>	

		<p>(4) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Schedule, the Agency may by notice in writing require the undertakerApplicant at the undertakerApplicant's own expense to comply with the requirements of this part of this Schedule or (if the undertakerApplicant so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.</p> <p>(5) Subject to sub-paragraph (6) and paragraph 3940, if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (4) is served upon the undertakerApplicant, the undertakerApplicant has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any expenditure incurred by the Agency in so doing isshall be recoverable from the undertakerApplicant.</p> <p>(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency mustshall not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 4142.</p>	
37	<p>Schedule 8 – Protective Provisions – Paragraph 35</p>	<p>3635.—(1) Subject to sub-paragraph (5) the undertakerApplicant must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the Applicant for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.</p> <p>(2) If any such drainage work which the undertakerApplicant is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing</p>	

		<p>require the undertaker Applicant to repair the drainage work, or any part of such drainage work, or (if the undertaker Applicant so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.</p> <p>(3) Subject to sub-paragraph (4) and paragraph 3940, if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker Applicant, the undertaker Applicant has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is reasonably necessary for such compliance and any expenditure reasonably incurred by the Agency in so doing is shall be recoverable from the undertaker Applicant.</p> <p>(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency will shall not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 4142.</p> <p>(5) This paragraph does not apply to—</p> <p>(a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and</p> <p>(b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.</p>	
38	Schedule 8 – Protective	37-36 . Subject to paragraph 3940 , if by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is	

	Provisions Paragraph 36	–	impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker Applicant to the reasonable satisfaction of the Agency and if the undertaker Applicant fails to do so, the Agency may make good the impairment or damage and recover any expenditure reasonably incurred by the Agency in so doing from the undertaker Applicant. 38.37. If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker Applicant must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction as soon as reasonably practicable and within 24 hours of the undertaker Applicant becoming aware of such obstruction unless a longer period of time has been agreed in writing by the Agency.	
39	Schedule 8 Protective Provisions Paragraph 37	– –	38.37. If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker Applicant must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction as soon as reasonably practicable and within 24 hours of the undertaker Applicant becoming aware of such obstruction unless a longer period of time has been agreed in writing by the Agency.	
40	Schedule 8 Protective Provisions Paragraph 38	– –	39.38. —(1) The undertaker Applicant must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work. (2) If by reason of— (a) the construction of any specified work; or (b) the failure of any such work,	

		<p>damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker Applicant requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.</p> <p>(3) Subject to paragraph 3940, if within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker Applicant fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any expenditure reasonably incurred by the Agency in so doing isshall be recoverable from the undertaker Applicant.</p> <p>(4) Subject to paragraph 3940, in any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker Applicant any reasonable expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker Applicant as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.</p>	
41	<p>Schedule 8 – Protective Provisions – Paragraph 39</p>	<p>40.39. The undertaker Applicant must indemnify make reasonable compensation to the Agency in respect of all direct reasonable costs, charges and expenses which the Agency may reasonably incur —</p> <p>(a) in the examination or approval of plans under this Part of this Schedule;</p> <p>(b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and</p> <p>(c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.</p> <p>(2) Prior to granting approval under paragraphs 33 and 34, Agency shall inform the Applicant of the costs it expects to reasonably incur in granting approval.</p>	

42	Schedule 8 – Protective Provisions – Paragraph 40	<p>41.40.—(1) The undertaker Applicant is responsible for and indemnifies shall make reasonable compensation to the Agency for all costs and direct losses not otherwise provided for in this Part of this Schedule which may be reasonably incurred or suffered by the Agency by reason of—</p> <p>(a) the construction of any specified works comprised within the authorised works; or</p> <p>(b) any act or omission of the undertaker Applicant, its employees, contractors or agents or others whilst engaged upon the construction of the authorised works,</p> <p>(b) except in so far as such costs or losses in relation to the operation or maintenance of the authorised works are properly covered and payable under separate agreement made between the Agency and the undertaker.</p> <p>(2) For the avoidance of doubt, in sub-paragraph (1)— “costs” includes reasonably incurred—</p> <p>(a) expenses and charges;</p> <p>(b) staff costs and overheads;</p> <p>(c) legal costs; and</p> <p>“losses” includes physical damage.</p> <p>(3) The undertaker must indemnify the Agency against all liabilities, claims and demands arising out of or in connection with the authorised works or otherwise out of the matters referred to in sub-paragraph (1)(a) and (b).</p> <p>(4) For the avoidance of doubt, in sub-paragraph (3) – claims” and “demands” include as applicable –</p> <p>(a) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand;</p> <p>(b) any interest element of sums claimed or demanded;</p> <p>“liabilities” includes –</p> <p>(a) contractual liabilities;</p> <p>(b) tortious liabilities (including liabilities for negligence or nuisance);</p> <p>(c) liabilities to pay statutory compensation or for breach of statutory duty;</p>	
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		<p>(d) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).</p> <p>(3)(5) The Agency must give to the undertakerApplicant reasonable notice of any such claim or demand and no settlement or compromise shall be made without the agreement of the undertakerApplicant which agreement mustshall not be unreasonably withheld or delayed.</p> <p>(4)(6) The fact that any work or thing has been executed or done by the undertakerApplicant in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, willdoes not relieve the undertakerApplicant from any liability under the provisions of this Part of this Schedule.</p>	
43	Schedule 8 Protective Provisions Paragraph 41	<p>– 42-41. Any dispute arising between the undertakerApplicant and the Agency under this part of this Schedule must, if the parties agree, be determined by arbitration under article 49 (arbitration), but willmust otherwise be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Business, Energy and Industrial Strategy Transport or its successor acting jointly on a reference to them by the undertakerApplicant or the Agency, after notice in writing by one to the other.</p>	
44	Schedule 8 Protective Provisions Paragraph 44(3)	<p>– (3) A specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 5253.</p>	Consequential amendment
45	Schedule 8 Protective Provisions Paragraph 45	<p>– 46-45. Without limiting paragraph 4445, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—</p>	Consequential amendment

46	Schedule 8 – Protective Provisions – Paragraph 46	<p>47.46.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 44, must be constructed—</p> <p>[...]</p> <p>(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 5253.</p>	Consequential amendment
47	Schedule 8 – Protective Provisions – Paragraph 47(3) and 47(4)	<p>(3) Subject to sub-paragraph (4) and paragraphs 4950 and 5054 if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is reasonably necessary for such compliance and may recover any reasonable expenditure reasonably incurred by it in so doing from the undertaker.</p> <p>(4) (4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 523.</p>	Consequential amendment
48	Schedule 8 – Protective	<p>49.48. Subject to paragraphs 4950 and 5054 and sub-paragraph 4748(5)(b), if, by reason of the construction of a specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker as soon as</p>	Consequential amendment

	Provisions Paragraph 48	–	reasonably practicable to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.	
49	Schedule 8 Protective Provisions Paragraph 61	–	62-61 . If for any reason or in consequence of the construction of any of the works referred to in paragraphs 5657 to 5859 and 6064 any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker will—	Consequential amendment
50	Schedule 9 Deemed Marine Licence Condition 1 Interpretation	–	Amended definition: “authorised development” has the meaning given in condition paragraph 5 ; Add definitions: ““CEMP” means construction and environmental management plan;” ““designated bird species” means any species which is a constituent named part of The Wash Special Protection Area/Ramsar/ Site of Special Scientific Interest (“Protected Sites”) non-breeding waterbird assemblage feature, or any species constituting a site feature in its own right on The Haven above Hobhole Drain; expanded to include any wader, gull, duck, goose, swan, or other waterbird species when monitoring downstream of Hobhole Drain confluence and into The Wash (i.e., inside Protected Sites boundaries);”	Added to address comments by the Marine Management Organisation at Deadline 5 Definition of designated bird species added as a result of amendments to condition 14

		<p>““Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) as amended, updated or superseded from time to time;”</p> <p>““Marine Noise Registry” means the database developed and maintained by the Joint Nature Conservation Committee on behalf of the Department for Environment, Food and Rural Affairs to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;”</p>	
51	Schedule 9 – Deemed Marine Licence – Condition 4(1)(j)	(j) the powers conferred by article 19(1) (powers in relation to relevant navigations or watercourses) of this Order ;	Added to address comments by the Marine Management Organisation at Deadline 5
52	Schedule 9 – Deemed Marine Licence – Condition 7(3)	(3) A copy of the notice must be provided to the MMO via MCMS within 24 hours of issue of a notice under sub-paragraphs (1) or (2) .	Typo
53	Schedule 9 – Deemed Marine Licence – Condition 8(1)	8. —(1) The MMO must be notified in writing of any vessel being used to carry on any licensed activity on behalf of the undertaker licence holder .	Added to address comments by the Marine Management Organisation at Deadline 5
54	Schedule 9 – Deemed Marine Licence – Condition 9	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 carry on any licensed activity, and that a copy of this licence and subsequent revisions or amendments must be held on board any such vessel.	Added to address comments by the Marine Management Organisation at Deadline 5

55	Schedule 9 – Deemed Marine Licence – Condition 12 – Construction environmental management plan	<p>12.—(1) The undertaker must submit a CEMP in writing construction and environmental management plan to the MMO for written approval in accordance with the procedure in Part 54, 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 a the licensed activity and licensed activities must not commence until written approval is provided by the MMO.</p> <p>(2) Unless otherwise agreed by the MMO in writing, the CEMP construction environmental management plan must include the following details—</p> <p>(a) the detailed construction methodology to be employed by the undertaker in carrying out the licensed construction activity;</p> <p>(b) a construction programme of works including—</p> <p>(i) a planned timetable for each licensed activity timings and durations including timings for mobilisation of plant and delivery by sea;</p> <p>(i)(ii) method of delivery of material to site and plan to be used during the works;</p> <p>(ii)(iii) a plan for notifying the MMO of the commencement and cessation of licensed activities and phases of activities;</p> <p>(iii)(iv) a plan for notifying the MMO of changes to the construction programme;</p> <p>(c) the detailed methodology for the excavation and subsequent management of any dredged material removed in the construction and maintenance of the berthing pocket including—</p> <p>(i) the volume of material to be dredged;</p>	Added to address comments by the Marine Management Organisation at Deadline 5
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		<p>(i)(ii) 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>(ii)(iii) 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>(iii)(iv) 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) a waste management and disposal plan;</p> <p>(f) plans and sections;</p> <p>(g) details of where the licensed activity was assessed in the environmental statement;</p> <p>(h) for any 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>(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>(j) monitoring measures.</p> <p>(3) The undertaker must not commence the licenced activity until the MMO has approved in writing the submitted CEMP.</p>	
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		(3) (4) Unless otherwise agreed by the MMO, the licensed activity must be carried out in accordance with the approval of the MMO.	
56	Schedule 9 – Deemed Marine Licence – Condition 13 – Piling	<p>13.—(1) The undertaker must submit a piling method statement in writing to the MMO for written approval in accordance with the procedure in Part 45, 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 condition paragraph 17;</p> <p>(c) details on the timing of piling activities throughout the year to ensure they are undertaken during non-sensitive periods for overwintering birds and juvenile fish (being June May – September inclusive);</p> <p>(d) details of the anticipated spread of piling activity throughout a working day; and</p> <p>(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>	Added to address comments by the Marine Management Organisation at Deadline 5
57	Schedule 9 – Deemed Marine	14. —(1) The undertaker must submit a navigation management plan in writing to the MMO for written approval in accordance with the procedure in Part 45, following consultation with the	Added to address comments by the Examining

	<p>Licence – Condition 14 – Navigation Management Plan</p>	<p>harbour authority, the relevant statutory nature conservation body and the Environment Agency to the extent that it relates to matters relevant to their functions, at least 13 weeks prior to the commencement of any licensed activity.</p> <p>(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>(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; (c) communication measures; (d) measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol approved under condition paragraph 17; (e) measures for managing disturbance to designated bird species developed in accordance with the process in the Navigation Management Planning Process: Risk to Birds; (e)(f) measures for managing potential biosecurity risks; and (f)(g) 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>Authority in its second written questions</p>
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		<p>(4) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted navigation management plan.</p> <p>(5) Unless otherwise agreed by the MMO, the navigation management plan must be implemented as approved by the MMO</p>	
58	Schedule 9 – Deemed Marine Licence – Condition 15 – Marine archaeology	<p>15.—(1) The undertaker must submit an archaeological written scheme of investigation (WSI) and protocol for archaeological discoveries (PAD) in writing to the MMO for written approval in accordance with the procedure in Part 45, following consultation with Historic England and the relevant planning authority, at least 6 weeks prior to the commencement of any licensed activity with the potential to affect buried archaeological assets</p>	Added to address comments by the Marine Management Organisation at Deadline 5
59	Schedule 9 – Deemed Marine Licence – Condition 16 – Marine pollution contingency plan	<p>16.—(1) The undertaker must submit a marine pollution contingency plan in writing to the MMO for written approval in accordance with the procedure in Part 45, 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 licensed 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>	Added to address comments by the Marine Management Organisation at Deadline 5

		<p>(3) The undertaker must not commence the licensed 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>	
60	Schedule 9 – Deemed Marine Licence – Condition 17 – Marine mammal mitigation protocol	<p>17.—(1) The undertaker must submit a marine mammal mitigation protocol to the MMO for approval in accordance with the procedure in Part 45, following consultation with the relevant statutory nature conservation body and Lincolnshire Wildlife Trust, at least 13 weeks prior to the commencement of any of licensed activity.</p> <p>(2) 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>(3) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted marine management mitigation protocol written approval is provided by the MMO under sub-paragraph (1).</p> <p>(4) Unless otherwise agreed by the MMO, the marine mammal mitigation protocol must be implemented as approved by the MMO.</p>	Added to address comments by the Marine Management Organisation at Deadline 5
61	Schedule 9 – Deemed Marine Licence – Condition 18(2) – Concrete and cement	<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 to minimize the risk of run off entering a watercourse.</p>	Added to address comments by the Marine Management Organisation at Deadline 5

62	Schedule 9 – Deemed Marine Licence – Condition 19 – Coatings and treatment	19. The undertaker must ensure that any coatings and any treatments are suitable for use in the marine environment area and are used in accordance with either guidelines approved by the Health and Safety Executive or the Environment Agency	Added to address comments by the Marine Management Organisation at Deadline 5
63	Schedule 9 – Deemed Marine Licence – Condition 20 – Spills, etc.	20.—(1) The undertaker must— (a) store, handle, transport and use fuels, lubricants, chemicals and other substances so as to prevent releases into the marine area, including bunding of 110% of the total volume of all reservoirs and containers; (b) report any spill of oil, fuel or chemicals into the marine area to the MMO Marine Pollution Response Team, the harbour master and the Maritime and Coastguard Agency within 12 hours of the spill occurring; and (c) store all waste in designated areas that are contained and sited at least 10 metres from any watercourse or surface water drain to minimise the risk of runoff entering a watercourse isolated from surface water drains and open water and are bunded to contain any spillage. (2) The containment required under sub-paragraph (1)(c) must be appropriate to the material and include bunding of 110% of the total volume of all reservoirs and containers.	Added to address comments by the Marine Management Organisation at Deadline 5
64	Schedule 9 – Deemed Marine Licence –	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.	Added to address comments by the Marine Management Organisation at Deadline 5

	Condition 22 – Dropped objects	<p>(2) The MMO Marine Licensing Team require a copy of the Dropped Object Procedure Form to be submitted must receive a copy of this notification no later than 24 hours after reporting to the harbour authority under sub-paragraph (1) submission.</p> <p>(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>	
65	Schedule 9 – Deemed Marine Licence – Condition 23 – 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 in writing to the MMO within 4 weeks of completion of each dredge campaign.</p>	Added to address comments by the Marine Management Organisation at Deadline 5
66	Schedule 9 – Deemed Marine Licence – Condition 24 – Reporting of impact sound to the Marine Noise Registry	<p><i>Reporting of impact sound to the Marine Noise Registry</i> Reporting of impact pile-driving</p> <p>24.—(1) Only when impact 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 licensed 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; and</p>	Added to address comments by the Marine Management Organisation at Deadline 5

		<p>(b) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the exact locations and specific dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements.</p> <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 purposes 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; and</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>	
67	Schedule 9 – Deemed Marine Licence – Condition 25 – Decommissioning	<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 45.</p>	Added to address comments by the Marine Management Organisation at Deadline 5
68	Schedule 9 – Deemed Marine Licence – Condition 26 – Notice of	<p style="text-align: center;"><i>Notice of completion of licensed activity</i></p> <p>26. The undertaker must inform the local MMO office and MMO Marine Licensing Team, in writing no more than 10 business days following the completion of the last licensed activity.</p>	Typo

	completion of licensed activity		
69	Schedule 9 – Deemed Marine Licence – Condition 27 – Meaning of “return”	<p>27. In this Part, “return” means a submission by the undertaker for approval of—</p> <p>(a) a CEMP construction environmental management plan under condition paragraph 12;</p> <p>(b) a piling method statement under condition paragraph 13;</p> <p>(c) a navigation management plan under condition paragraph 14;</p> <p>(d) an archaeological written scheme of investigation and protocol for archaeological discoveries under condition paragraph 15;</p> <p>(e) a marine pollution contingency plan under condition paragraph 16;</p> <p>(f) a marine mammal mitigation protocol under condition paragraph 17; and</p> <p>(g) a decommissioning scheme under condition paragraph 25.</p>	Added to address comments by the Marine Management Organisation at Deadline 5
70	Schedule 9 – Deemed Marine Licence – Condition 29(1)(b)	(b) any further information provided by the undertaker in accordance with condition paragraph 28 ; and	Added to address comments by the Marine Management Organisation at Deadline 5
71	Schedule 9 – Deemed Marine Licence – Condition 30(2)	(2) Where the MMO has made a request under condition paragraph 28 , the MMO must give notice to the undertaker of the determination of the return 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.	Added to address comments by the Marine Management Organisation at Deadline 5

72	Schedule 9 – Deemed Marine Licence – Condition 31(3) – Changes to the Licence	(3) The MMO must give notice of the determination of 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 updated CEMP construction environmental management plan in accordance with condition paragraph 12 and adequately justifying the requested variation to the reasonable satisfaction of the MMO.	Added to address comments by the Marine Management Organisation at Deadline 5
73	Schedule 9 – Deemed Marine Licence – Condition 32	<p style="text-align: center;">PART 6</p> <p style="text-align: center;">CHANGES TO APPROVED DOCUMENTS</p> <p>32.—(1) With respect to documents certified under article 47 (certification of documents, etc.) and any other plans, details, statements or protocols which require approval by the MMO in accordance with any condition (together “Approved Documents”), the undertaker may submit to the MMO for approval any amendments to the Approved Documents and following any such approval by the MMO the Approved Documents are to be taken to include the amendments approved by the MMO in accordance with this paragraph.</p> <p>(2) Approval under sub-paragraph (1) for the amendments to Approved Documents must not be given except where it has been demonstrated to the satisfaction of the MMO that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.</p>	Added for clarity and consistency with the requirements in Schedule 2.
74	Schedule 11 – Ornithology Compensation Measures	Insert new schedule as drafted.	Added in response to Examining Authority’s commentary on the draft DCO.

75	Schedule 10	(1) <i>Document name</i>	(2) <i>Document reference</i>	(3) <i>Revision number</i>	Amended to reflect latest versions
		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	1.0	
		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	1.0	
		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	
		Outline marine mammal mitigation protocol	9.12	1.0	
		Outline surface and foul water drainage strategy	9.4	1.0	
		Outline written scheme of investigation	7.3	1.0	
Works plans	4.3	1.0			