

REPORT

Boston Alternative Energy Facility

Schedule of Changes to the draft Development Consent Order

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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 8 (15 March 2022). These amendments are to the version of the dDCO submitted at Deadline 6 (Document reference 2.1(3), REP6-002). 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 ‘environmental statement’	“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.) as supplemented by the documents set out in Part 2 of Schedule 10;	Added to ensure the addendums to the environmental statement submitted during Examination are taken into consideration
2.	Article 2 – definition of ‘Navigation Management Planning Process: Risk to Birds’	New definition: “Navigation Management Planning Process: Risk to Birds” means the document of that description certified by the Secretary of State as the Navigation Management Planning Process: Risk to Birds for the purposes of this Order under article 47 (certification of documents, etc.);	Added as a result of amendments to the deemed marine licence
3.	Article 2 – definition of ‘navigation management plan template’	New definition: “navigation management plan template” means the document of that description certified by the Secretary of State as the template navigation management plan for the purposes of this Order under article 47 (certification of documents. etc.);	Added as a result of amendments to the deemed marine licence

4.	Article 2 – definition of ‘outline air quality and dust management plan’	New definition: “outline air quality and dust management plan” means the document of that description certified by the Secretary of State as the outline air quality and dust management plan for the purposes of this Order under article 47 (certification of documents, etc.);	Added as a result of amendments to the requirements
5.	Article 2 – definition of ‘outline air quality deposition monitoring plan’	New definition: “outline air quality deposition monitoring plan” means the document of that description certified by the Secretary of State as the Outline air quality deposition monitoring plan for the purposes of this Order under article 47 (certification of documents, etc.);	Added as a result of amendments to the requirements
6.	Article 2 – definition of ‘register of environmental actions and commitments’	New definition: “register of environmental actions and commitments” means the document of that description certified by the Secretary of State as the register of environmental actions and commitments for the purposes of this Order under article 47 (certification of documents, etc.);	Added as a result of amendments to the requirements
7.	Schedule 2, Paragraph 1 - Interpretation	“Defra” means the Department for Environment, Food and Rural Affairs; “Defra biodiversity off-setting metric” means the mechanism published by Defra the Department for Environment, Food and Rural Affairs to quantify impacts on biodiversity, which allows biodiversity losses and gains affecting different habitats to be compared and ensures offsets are sufficient to compensate for residual losses of biodiversity;	Amended for clarity

		“habitat mitigation area” means the area shown on Figure 17.9 of the environmental statement;	
8.	Schedule 2, Paragraph 6 – Landscape and ecological mitigation strategy	<p>[...]</p> <p>(2) The relevant planning authority’s approval of the landscape and ecological mitigation strategy is restricted to those parts of the strategy that relate to the parts of the authorised development that are above MHWS, with the remainder the strategy approved by the MMO under condition 18 of Schedule 9 (deemed marine licence).</p> <p>(2)(3) The landscape and ecological mitigation strategy approved under sub-paragraph (1) must be substantially in accordance with the outline landscape and ecological landscape mitigation strategy.</p> <p>(3)(4) The landscape and ecological mitigation strategy approved under sub-paragraph (1) must include details of—</p> <p>[...]</p> <p>(e) certified copies of the completed legal agreements securing the site or sites identified in (d) 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</p> <p>(f) any hard and soft landscaping to be incorporated within Work Nos. 1, 2, 3, 4, 5 and 6 including location, number, species, size of any planting and the management and maintenance regime for such landscaping; and</p> <p>(g) an air quality deposition monitoring plan that must be substantially in accordance with the outline air quality deposition monitoring plan and must include the final numbers and locations</p>	<p>Added as a result of the inclusion of a condition in the deemed marine licence to address comments from the Marine Management Organisation</p> <p>Added for clarity</p>

		of deposition monitoring locations, as agreed with the relevant statutory nature conservation body and the Environment Agency.	
9.	Schedule 2, Paragraph 11 – Code of construction practice	<p>[...]</p> <p>(2) The code of construction practice submitted for approval must be substantially in accordance with the outline code of construction practice to the extent that it is applicable to that part and must reflect the mitigation measures set out in the register of environmental actions and commitments (Application Document 7.6).</p> <p>(3) The code of construction practice submitted under sub-paragraph (1) must include the following—</p> <ul style="list-style-type: none"> (a) the construction and phasing programme; (b) liaison procedures; (c) complaints procedures; (d) an air quality and dust management plan detailing air quality and dust monitoring and management measures during construction that must be substantially in accordance with the outline air quality and dust management plan; 	<p>Amendment as a result of inclusion of the register of environmental actions and commitments as a certified document.</p> <p>Added for clarity</p>
10	Schedule 2, Paragraph 22 – Decommissioning	<p>(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 schemeplan approved under the deemed marine licence), 5 and 6 must be submitted to and approved by the relevant planning authority.</p> <p>[...]</p>	Correction

		(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 unless the intertidal habitat is reinstated to an acceptable condition to enable waterbirds to return to use this area for roosting.	Added for consistency with the Outline Landscape Ecological Mitigation Strategy
11	Schedule 8 – Protective Provisions – Part 4 – Paragraph 34	34 –(5) Subject to sub-paragraph (6) and paragraph 39, 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 undertaker, the undertaker 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 reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.	Added with agreement of the EA
12	Schedule 8 – Protective Provisions – Part 4 – Paragraph 35	35 –(5) This paragraph does not apply to— (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 (b) any obstruction of a drainage work expressly authorised in the approval of specified works plans 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.	Amended as a result of comments from the EA
13	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of	1. –(1) “authorised development” has the meaning given in paragraph 4 condition 45 ;	Correction

	'authorised development'		
14	Schedule 9 – Deemed Marine Licence – Paragraph 1 – Interpretation	New definition: “biodiversity units” means the product of the size of an area, and the distinctiveness and condition of the habitat it comprises to provide a measure of ecological value (as assessed using the Defra biodiversity off–setting metric);	Added as a result of new condition added to the deemed marine licence
15	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'biodiversity off- setting scheme'	New definition: “biodiversity off-setting scheme” means a scheme which will deliver biodiversity enhancements which must not be less than the off–setting value;	Added as a result of new condition added to the deemed marine licence
16	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'capital dredging'	New definition: “capital dredging” means dredging which comprises the excavation of the seabed, in an area or down to a level (relative to ordnance datum) not previously dredged during the preceding 10 years;	Amendment to address comments from the Marine Management Organisation

17	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'Defra'	New definition: “Defra” means the Department for Environment, Food and Rural Affairs;	Added as a result of new condition added to the deemed marine licence
18	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'Defra biodiversity off- setting metric'	New definition: “Defra biodiversity off-setting metric” means the mechanism published by Defra to quantify impacts on biodiversity, which allows biodiversity losses and gains affecting different habitats to be compared and ensures offsets are sufficient to compensate for residual losses of biodiversity;	Added as a result of new condition added to the deemed marine licence
19	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'environmental information'	“environmental information” means the Environmental Statement and any further information as defined in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(-) relating to the application for development consent in respect of the marine works;	Deleted as this phrase is not used in the deemed marine licence
20	Schedule 9 – Deemed Marine Licence –	“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.) as supplemented by the documents set out in Part 2 of Schedule 10;	For consistency with definition in article 2 of the Order

	Paragraph 1 – definition of 'environmental statement'		
21	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'navigation management plan'	New definition: "navigation management plan" means the navigation management plan to be produced in accordance with condition 14 and which may be approved by the MMO in accordance with the procedure in Part 4;	Added for clarity
22	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'Navigation Management Planning Process: Risk to Birds'	New definition: "Navigation Management Planning Process: Risk to Birds" means the document of that description certified by the Secretary of State as the Navigation Management Planning Process: Risk to Birds for the purposes of this Order under article 47 (certification of documents, etc.);	Added as a result of amendments to condition 14

23	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'navigation management plan template'	New definition: “navigation management plan template” means the document of that description certified by the Secretary of State as the template navigation management plan for the purposes of this Order under article 47 (certification of documents. etc.);	Added as a result of amendments to condition 14
24	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'navigation risk assessment'	New definition: “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.);	Added as a result of amendments to condition 14
25	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'off- setting value'	New definition: “off-setting value” means the net biodiversity impact of the authorised development, calculated using the Defra biodiversity off–setting metric, measured in biodiversity units;	Added as a result of new condition added to the deemed marine licence
26	Schedule 9 – Deemed Marine	New definition: “other navigation risk assessment” means any assessment of navigation risk required by the harbour authority or the MMO from time to time;	Added as a result of amendments to condition 14

	Licence – Paragraph 1 – definition of ‘other navigation risk assessment’		
27	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of ‘outline air quality deposition monitoring plan’	New definition: “outline air quality deposition monitoring plan” means the document of that description certified by the Secretary of State as the Outline air quality deposition monitoring plan for the purposes of this Order under article 47 (certification of documents, etc.);	Added as a result of new condition added to the deemed marine licence
28	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of ‘outline landscape and ecological mitigation strategy’	New definition: “outline landscape and ecological mitigation strategy” means the document of that description certified by the Secretary of State as the outline landscape and ecological mitigation strategy for the purposes of this Order under article 47 (certification of documents, etc.);	Added as a result of new condition added to the deemed marine licence

29	Schedule 9 – Deemed Marine Licence – Paragraph 1 – definition of 'outline marine mammal mitigation protocol'	New definition: “outline marine mammal mitigation protocol” means the document of that description certified by the Secretary of State as the outline marine mammal mitigation protocol for the purposes of this Order under article 47 (certification of documents, etc.);	Added for clarity
30	Schedule 9 – Deemed Marine Licence – Paragraph 2	<p>2.–(1) Except where otherwise indicated, the main point of contact with the MMO and the address for email and postal returns and correspondence are as follows—</p> <p>(c) Marine Management Organisation, Marine Licensing Team, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH; Tel. – 0300 123 1032, Email = marine.consents@marinemanagement.org.uk or such replacement contact details as are notified to the undertaker in writing by the MMO;</p> <p>The MMO Local Office – Marine Management Organisation, MMO Beverley Lowestoft Office, Room 13, Ground Floor, Crosskill House, Mill Lane, Beverly, HU17 9JB Pakefield Road, Lowestoft, Suffolk, NR33 0HT; Tel. -0208 026 0519 01502 573 149, Email – beverley lowestoft@marinemanagement.org.uk or such replacement contact details as are notified to the undertaker in writing by the MMO.</p>	Amended to address comments by the MMO
31	Schedule 9 – Deemed Marine	3. Subject to the licence conditions in Part 3 4 of this licence, this licence authorises the undertaker (and any agent, contractor or subcontractor acting on its behalf) to carry out any licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act which—	Correction (note: the number 4 has been deleted)

	Licence – Paragraph 3		
32	Schedule 9 – Deemed Marine Licence – Paragraph 4	<p>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—</p> <p>(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;</p> <p>(b) the creation by capital dredging, use and maintenance of a berthing pocket within the following parameters—</p>	Added for clarity
33	Schedule 9 – Deemed Marine Licence – Paragraph 12 – Construction environmental management plan	<p>12.—(1) The undertaker must submit a CEMP in writing to the MMO for written approval in accordance with the procedure in Part 4, 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 any licensed activity.</p> <p>(2) Unless otherwise agreed by the MMO in writing, the CEMP must include the following details (where relevant to the particular licensed activity)—</p> <p>(a) the detailed construction methodology to be employed by the undertaker in carrying out the licensed activity;</p> <p>(b) a construction programme including—</p> <p>(i) a planned timetable for each licensed activity including timings for mobilisation of plant and delivery by sea;</p> <p>(ii) method of delivery of material to site;</p>	Amendments for clarity

		<p>(iii) a plan for notifying the MMO of the commencement and cessation of licensed activities and phases of activities;</p> <p>(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> <p>(ii) a sampling plan sediment sample analysis results, which must not exceed three years in age and which must be completed by a laboratory validated by the MMO and undertaken in accordance with the sample plan approved under condition 25;</p> <p>(iii) where contamination is identified by the sediment sample analysis results, for assessing the level of contaminants in any dredged material and a monitoring and action plan to address in relation to the potential release of contaminants from dredged material into the watercourse;</p> <p>(iii) (iv) provision that dredging activities must only be undertaken from 1 July to 28 February inclusive and the details on the timing of dredging activities throughout those months the year to ensure they are undertaken during non-sensitive periods for juvenile fish (being July — February inclusive);</p> <p>(iv) (v) 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>[...]</p> <p>(3) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted CEMP.</p>	<p>Amendments to address comments from the MMO</p> <p>'In writing' inserted to address comments from MMO</p>
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		(4) Unless otherwise agreed by the MMO in writing , the CEMP must be implemented as approved by licensed activity must be carried out in accordance with the approval of the MMO.	Amendments to address comments from the MMO
34	Schedule 9 – Deemed Marine Licence – Paragraph 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 4, 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 licensed activities 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> <ul style="list-style-type: none"> (a) the use of pile pads and pile shrouds at all times; (b) measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol approved under condition 17; (c) provision that piling activities must only be undertaken between 1 June and 30 September and details on the timing of piling activities throughout those months the year to ensure they are undertaken during non-sensitive periods for overwintering birds and juvenile fish (being June – September inclusive); (d) details of the anticipated spread of piling activity throughout a working day with piling permitted between the hours of 0800 to 2000 hours on Monday to Saturday (with the option of 0700 to 1900); (d)(e) provision that no planned simultaneous piling will be carried out; and (e)(f) monitoring measures. 	Amended to address comments from the MMO and for consistency with the other conditions

		<p>(3) The undertaker must not commence any licensed activities consisting of piling until the MMO has approved in writing the submitted piling method statement.</p> <p>(3)(4) Unless otherwise agreed by the MMO in writing, percussive piling must only be carried out in accordance with the relevant piling method statement as approved in writing by the MMO.</p>	
35	<p>Schedule 9 – Deemed Marine Licence – Paragraph 14 – Navigation Management Plan</p>	<p>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 4, following consultation with the 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 or in any other navigation 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 or in any other navigation risk assessment.</p> <p>(3) The navigation management plan submitted for approval under sub-paragraph (1) must be substantially in accordance with the navigation management plan template.</p> <p>[...]</p> <p>(5) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted navigation management plan.</p> <p>(5)(6) Unless otherwise agreed by the MMO in writing, the navigation management plan must be implemented as approved by the MMO.</p>	<p>Amended to clarify that the navigation risk assessment and the navigation management plan are intended to be live documents that will be updated as required to ensure changes in vessel activities are captured and measures are updated appropriately to maintain navigational safety on The Haven</p>

		<p>(7) Following approval of the navigation management plan in accordance with the procedure in Part 4 the undertaker may from time to time submit revised navigation management plans to the MMO following consultation with the harbour authority, the relevant statutory nature conservation body and the Environment Agency to the extent that it relates to matters relevant to their functions.</p> <p>(8) A revised navigation management plan submitted to the MMO in accordance with subparagraph (7) and approved by the MMO in accordance with Part 4 supersedes any other navigation management plan in effect on the date of approval.</p>	
36	Schedule 9 – Deemed Marine Licence – Paragraph 15 – Marine archaeology	15 –(3) Unless otherwise agreed by the MMO in writing , all licensed activities must adhere to the terms of the WSI and PAD as approved by the MMO .	Amended to address comments from the MMO
37	Schedule 9 – Deemed Marine Licence – Paragraph 16 – Marine pollution contingency plan	16 –(4) Unless otherwise agreed by the MMO in writing , the marine pollution contingency plan must be implemented as approved by the MMO .	Amended to address comments made by the MMO
38	Schedule 9 – Deemed Marine Licence – Paragraph 17 –	17 –(1)The undertaker must submit a marine mammal mitigation protocol in writing to the MMO for approval in accordance with the procedure in Part 4, 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.	Amended to address comments made by the MMO

	Marine mammal mitigation protocol	[...] (4) Unless otherwise agreed by the MMO in writing , the marine mammal mitigation protocol must be implemented as approved by the MMO.	
39	Schedule 9 – Deemed Marine Licence – Paragraph 18 – Landscape and Ecological Mitigation Strategy	<p>New Paragraph:</p> <p style="text-align: center;"><i>Landscape and Ecological Mitigation Strategy</i></p> <p>18.—(1) The undertaker must submit a landscape and ecological mitigation strategy in writing to the MMO for approval in accordance with the procedure in Part 4, following consultation with Boston Borough Council, 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 of licensed activity.</p> <p>(2) The MMO's approval of the landscape and ecological mitigation strategy is restricted to the parts of that strategy that relate to any activities below MHWS, with the remainder approved by the relevant planning authority under requirement 6 of Schedule 2 (requirements).</p> <p>(3) The landscape and ecological mitigation strategy submitted for approval under sub-paragraph (1) must be substantially in accordance with the outline landscape and ecological landscape mitigation strategy.</p> <p>(4) The landscape and ecological mitigation strategy approved under sub-paragraph (1) must include details of—</p> <p style="padding-left: 40px;">(a) mitigation measures required to protect protected habitats and species, non-statutory designated sites and other habitats and species of principal importance during the construction of the authorised development;</p>	Added to address comments made by the MMO

		<p>(b) mitigation measures required to protect protected habitats and species, non–statutory designated sites and other habitats and species of principal importance during the operation of the authorised development;</p> <p>(c) the results of the Defra biodiversity off–setting metric together with the off–setting value required, the nature of such off–setting and evidence that the off–setting value provides for the required biodiversity compensation, risk factors (including temporal lag) and long term management and monitoring;</p> <p>(d) the site or sites on which the compensation off–setting required pursuant to (c) will be provided together with evidence demonstrating that the site or sites has/have been chosen in accordance with the prioritisation set out in the outline landscape and ecological mitigation strategy;</p> <p>(e) certified copies of the completed legal agreements securing the site or sites identified in (d) 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;</p> <p>(f) any hard and soft landscaping to be incorporated within Work No. 4 including location, number, species, size of any planting and the management and maintenance regime for such landscaping; and</p> <p>(g) an air quality deposition monitoring plan that must be substantially in accordance with the outline air quality deposition monitoring plan and must include the final numbers and locations of deposition monitoring locations, as agreed with the relevant statutory nature conservation body and the Environment Agency.</p>	
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40	Schedule 9 – Deemed Marine Licence – Paragraph 23 – Sediment Sampling		<p>23–(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 MMO or 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>	Amended to address a comment made by the MMO
41	Schedule 9 – Deemed Marine Licence – Paragraph 25 – Sediment Sampling		<p>New paragraph:</p> <p style="text-align: center;"><i>Sediment Sampling</i></p> <p>25.—(1) The undertaker must submit a sample plan request in writing to the MMO for written approval of a sample plan in accordance with the procedure in Part 4, following consultation with the Environment Agency.</p> <p>(2) The sample plan request must be made—</p> <p style="padding-left: 40px;">(a) for capital dredging, at least six months prior to the commencement of any capital dredging, or</p> <p style="padding-left: 40px;">(b) for maintenance dredging, at least six months prior to the end of every third year from the date of the previous sediment sample analysis.</p> <p>(3) The sample plan request must include details of—</p>	Added to address comments from the MMO

		<p>(a) the volume of material to be dredged;</p> <p>(b) the location of the area to be dredged;</p> <p>(c) details of the material type proposed for dredging;</p> <p>(d) the type and dredging methodology (including whether it is a capital or maintenance dredge, depth of material to be dredged and proposed programme for the dredging activities); and</p> <p>(e) the location and depth of any supporting samples.</p> <p>(4) Unless otherwise agreed by the MMO, the undertaker must undertake the sampling in accordance with the approved sample plan.</p> <p>(5) For capital dredging, the undertaker must submit sediment sample analysis results as part of the CEMP in accordance with condition 12 and the undertaker must not undertake the dredging activities until the MMO has approved the CEMP.</p> <p>(6) For maintenance dredging, the undertaker must submit sediment sample analysis results completed by a laboratory validated by the MMO at least 6 weeks prior to undertaking any maintenance dredging and the undertaker must not undertake any dredging until the MMO has approved the sediment sample analysis results.</p>	
42	Schedule 9 – Deemed Marine Licence – Paragraph 27 – Decommissioning	<p>27.—(1) Within 24 months of the permanent cessation of the operation of Work No. 4, the undertaker must submit details of a decommissioning 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) in writing to the MMO for approval in writing in accordance with the procedure in Part 4.</p> <p>[...]</p>	Amended to address comments made by the MMO

		(3) Unless otherwise agreed by the MMO in writing , the decommissioning scheme as approved under sub-paragraph (1) must be implemented in accordance with the phasing set out therein as approved by the MMO .	
43	Schedule 9 – Deemed Marine Licence – Paragraph 28 – Notice of completion of licensed activity	28. The undertaker must inform the local MMO office and MMO Marine Licensing Team of completion of the licensed activities , in writing no more than 10 business days following the completion of the last licensed activity.	Amended to address comments made by the MMO
44	Schedule 9 – Deemed Marine Licence – Paragraph 29 – Meaning of “return”	27-29. 29. In this Part, “return” means a submission by the undertaker for approval of— (a) a CEMP under condition 12; (b) a piling method statement under condition 13; (c) a navigation management plan under condition 14; (d) an WSI archaeological written scheme of investigation and PAD protocol for archaeological discoveries under condition 15; (e) a marine pollution contingency plan under condition 16; (f) a marine mammal mitigation protocol under condition 17; (g) a landscape and ecological mitigation strategy under condition 18; (f) (h) a sample plan under condition 25; and	Amended as a result of earlier amendments

		(g)(i) a decommissioning scheme under condition 275.	
45	Schedule 9 – Deemed Marine Licence – Paragraph 31 – Determination of returns	<p>29-31.—(1) In determining the return the MMO may have regard to—</p> <p>(a) the return and any supporting information or documentation;</p> <p>(b) any further information provided by the undertaker in accordance with paragraph condition 3028; and</p> <p>(c) such matters as the MMO reasonably thinks are relevant.</p> <p>(2) Having considered the return the MMO must—</p> <p>(a) grant the return unconditionally;</p> <p>(b) grant the return subject to conditions as the MMO thinks fit; or</p> <p>(c) refuse the return.</p> <p>(3) In determining a return, the MMO may discharge its obligations under sub-paragraph (2)(a), (b) or (c) separately in respect of a part of the return only, where it is reasonable to do so.</p>	Renumbering
46	Schedule 9 – Deemed Marine Licence – Paragraph 32 – Notice of determination	<p>30-32.—(1) Subject to sub-paragraph (2) or (3), 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 return is received by the MMO, or as soon as reasonably practicable after that date.</p> <p>(2) Where the MMO has made a request under paragraph condition 3028, 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.</p>	Renumbering

47	Schedule 9 – Deemed Marine Licence – Paragraph 34 – Changes to approved documents	34. —(1) With respect to the 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 in writing any amendments to the Approved Documents and following any such approval by the MMO in writing the Approved Documents are to be taken to include the amendments approved by the MMO in accordance with this paragraph.			Amended to for consistency with other conditions																						
48	Schedule 10 – Part 1 – Documents and Plans to be Certified	Article 49 7			Corrected article cross reference																						
49	Schedule 10 – Part 1 – Documents and Plans to be Certified	<table border="1"> <thead> <tr> <th data-bbox="539 852 1182 959"><i>(1)</i> Document name</th> <th data-bbox="1182 852 1464 959"><i>(2)</i> Document reference</th> <th data-bbox="1464 852 1691 959"><i>(3)</i> Revision number</th> </tr> </thead> <tbody> <tr> <td data-bbox="539 959 1182 1002">Access and rights of way plans</td> <td data-bbox="1182 959 1464 1002">4.5</td> <td data-bbox="1464 959 1691 1002">0.0</td> </tr> <tr> <td data-bbox="539 1002 1182 1045">Book of reference</td> <td data-bbox="1182 1002 1464 1045">3.3</td> <td data-bbox="1464 1002 1691 1045">0.0</td> </tr> <tr> <td data-bbox="539 1045 1182 1088">Combined heat and power assessment</td> <td data-bbox="1182 1045 1464 1088">5.7</td> <td data-bbox="1464 1045 1691 1088">0.0</td> </tr> <tr> <td data-bbox="539 1088 1182 1131">[Compensation measures document]</td> <td data-bbox="1182 1088 1464 1131">[9.30]</td> <td data-bbox="1464 1088 1691 1131">[2.0]</td> </tr> <tr> <td data-bbox="539 1131 1182 1174">Design and access statement</td> <td data-bbox="1182 1131 1464 1174">5.3</td> <td data-bbox="1464 1131 1691 1174">0.0</td> </tr> <tr> <td data-bbox="539 1174 1182 1270">Environmental statement</td> <td data-bbox="1182 1174 1464 1270">Volume 1, 6.2 Volume 2, 6.3 Volume 3, 6.4</td> <td data-bbox="1464 1174 1691 1270">0.0</td> </tr> <tr> <td data-bbox="539 1270 1182 1303">Flood risk assessment</td> <td data-bbox="1182 1270 1464 1303">6.4.13</td> <td data-bbox="1464 1270 1691 1303">0.0</td> </tr> </tbody> </table>	<i>(1)</i> Document name	<i>(2)</i> Document reference	<i>(3)</i> Revision number	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	[Compensation measures document]	[9.30]	[2.0]	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	Amended as a result of earlier amendments
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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 Management Planning Process: Risk to Birds	9.70	0.0	
		Navigation management plan template	9.80	1.0	
		Navigation risk assessment	9.27	1.0	
		Outline air quality and dust management plan	9.39	0.0	
		Outline air quality deposition monitoring plan	9.51	1.0	
		Outline landscape and ecological mitigation strategy	7.4	1.0	
		Outline code of construction practice	7.1	0.0	
		[Outline ornithology compensation implementation and monitoring plan]	[9.81]	[1.0]	
		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	
		Register of environmental actions and commitments	7.6	1.0	
		Works plans	4.3	1.0	
50	Schedule 10 – Part 2 – Environmental Statement Supplements	(1) <i>Document name</i>	(2) <i>Document reference</i>	(3) <i>Revision Number</i>	
		Addendum to Chapter 17 and Appendix 17.1 - Benthic Ecology, Fish and Habitats	9.15	0.0	

		<p>Addendum to Environmental Statement Chapter 17 and Appendix 17.1 - Marine Mammals 9.14 0.0</p> <p>Appendix 14.4 - Analysis of SO2 and O3 Concentrations to Justify Adoption of the Less Stringent Daily Mean NOx Critical Level for Protection of Vegetation 9.8 0.0</p> <p>Appendix 14.5 - Human Health Risk Assessment 9.9 0.0</p> <p>Appendix 14.6 - Abnormal Emissions Assessment 9.10 0.0</p> <p>Boston Alternative Energy Facility Examination Technical Note: Updated Piling Noise Assessment 9.16 0.0</p> <p>Chapter 17 Marine and Coastal Ecology and Appendix 17.1 - Habitats Regulations Assessment - Ornithology Addendum 9.13 0.0</p> <p>Chapter 17 Marine and Coastal Ecology and Appendix 17.1 Habitats Regulations Assessment Update 9.59 0.0</p> <p>Habitats Regulations Assessment (HRA) Screening and Integrity Matrices 9.42 1.0</p> <p>Indicative Construction Programme 9.18 0.0</p> <p>Noise Modelling and Mapping Relating to Bird Disturbance at the Principal Application Site 9.50 0.0</p> <p>Wharf Construction Outline Methodology 9.17 0.0</p>	
51	<p>Schedule 11 – Ornithology Compensation Measures – Paragraph 1 – definition of ‘compensation</p>	<p>Amended definition: “compensation measures document” means the document “Without Prejudice Habitats Regulations Assessment Derogation Case: Compensation Measures” certified by the Secretary of State as the compensation measures document for the purposes of this Order under article 47 (certification of documents, etc.);</p>	Amended for clarity

	measures document'		
52	Schedule 11 – Ornithology Compensation Measures – Paragraph 1 – definition of hot commissioning of line 2 of Work No. 1A	New definition: “hot commissioning of line 2 of Work No. 1A” means the first date on which waste is combusted to produce steam for more than 8 hours continuously in the second waste processing line of Work No. 1A during the commissioning phase of that line;	Added for clarity
53	Schedule 11 – Ornithology Compensation Measures – Paragraph 1 – definition of ‘OCIMP’	“OCIMP” means the ornithology compensation implementation and monitoring plan for the delivery of measures to compensate for [the roosting and foraging habitat loss as a result of the construction of Work No. 4 and] the predicted disturbance to roosting, bathing and loafing waterbirds from The Wash SPA and Ramsar Site [(and functionally linked habitat)] as a result of the authorised development;	Amended to address comments from the RSPB
54	Schedule 11 – Ornithology Compensation Measures –	“OEG” means the Ornithology Engagement Group, which will include, as a minimum, the relevant statutory nature conservation body and the Royal Society for the Protection of Birds;	Amended to address comments from the RSPB

	Paragraph 1 – definition of ‘OEG’		
55	Schedule 11 – Ornithology Compensation Measures – Paragraph 1 – definition of ‘ornithology compensation plan’	“ornithology compensation plan” means the document “Without Prejudice Habitats Regulations Assessment Derogation Case: Compensation Measures” certified by the Secretary of State as the ornithology compensation plan for the purposes of this Order under article 47 (certification of documents, etc.); and	Replaced with definition of ornithology compensation document
56	Schedule 11 – Ornithology Compensation Measures – Paragraph 1 – definition of ‘outline ornithology compensation implementation and monitoring plan’	New definition: “ outline ornithology compensation implementation and monitoring plan ” means the document certified by the Secretary of State as the outline ornithology compensation implementation and monitoring plan for the purposes of this Order under article 47 (certification of documents, etc.); and	Added for clarity

57	Schedule 11 – Ornithology Compensation Measures – Paragraph 1 – definition of ‘The Wash SPA and Ramsar Site’	“The Wash SPA and Ramsar Site ” means the site designated as The Wash Special Protection Area and The Wash Ramsar Site .	Amended to address comments from the RSPB
58	Schedule 11 – Ornithology Compensation Measures – Paragraph 2	<p>2. The authorised development may not be commenced until a plan for the work of the OEG has been submitted to and approved by the Secretary of State, following consultation with the members of the OEG. Such plan must include—</p> <p>(a) terms of reference of the OEG;</p> <p>(b) details of the membership of the OEG;</p> <p>(c) details of the schedule of meetings, timetable for preparation of the OCIMP and reporting and review periods; and</p> <p>(d) the dispute resolution mechanism; and</p> <p>(d)(e) minutes from all consultations with the OEG and copies of any written consultation responses from the OEG.</p>	Amended to address comments from Natural England
59	Schedule 11 – Ornithology Compensation	3. Following consultation with the OEG, the OCIMP must be submitted to and approved by the Secretary of State, for approval (in consultation with the local planning authority or authorities for	Amended to address comments from Natural England

	Measures Paragraph 3	–	the land containing the compensation measures, and the relevant statutory nature conservation body). The OEG must be consulted further as required during the approval process.	
60	Schedule 11 Ornithology Compensation Measures Paragraph 4	–	4.The OCIMP submitted for approval must be substantially in accordance with the outline ornithology compensation implementation and monitoring plan.	Added for clarity
61	Schedule 11 Ornithology Compensation Measures Paragraph 5	–	<p>3.5.The OCIMP must include measures to compensate for [the roosting and foraging habitat loss as a result of the construction of Work No. 4 and] the predicted disturbance to roosting, bathing and loafing waterbirds from The Wash SPA and Ramsar Site [(and functionally linked habitat)], must be based on the criteria set out in paragraph 3.5.5 of the compensation measures document, must contain the relevant matters set out in paragraph 4.11.4 of the compensation measures document based on the principles for ornithological compensation set out in the ornithology compensation plan and must include in particular—</p> <p>[...]</p> <p>(d) an implementation timetable for delivery of the compensation measures that ensures all compensation measures are in place prior to the impact occurring (e.g. [F]or habitat loss as a result of the construction of Work No. 4, for dredging and construction impacts to the habitat within Work No. 4 the measures will be in place prior to any dredging or construction works on the intertidal habitat and] for the compensation for disturbance by the increased number of vessels, at the mouth of The Haven the measures will be in place for at least two years prior to the hot commissioning of line 2 of Work No. 1A operation of the authorised development);</p> <p>(e) criteria for assessing the effectiveness of the compensation measures;</p>	Amended to address comments from the RSPB and Natural England

		<p>(h) provision for annual reporting to the Secretary of State, to include details of the use of each site by waterbirds (split into species accounts) to identify barriers to success and target the adaptive management measures. This would include the number of birds using the site; evidence of birds roosting, foraging and bathing around high tide periods and any evidence of continued disturbance from vessels at the authorised development and at the mouth of The Haven;</p> <p>(h)(i) details of the management and maintenance prescriptions and a compensation site(s) maintenance schedule appropriate to the habitats to be created at each compensation location; and</p> <p>(i) (j) minutes from all consultations with the OEG and copies of any written consultation responses from the OEG on matters relating to the development of the OCIMP.</p>	
62	Schedule 11 – Ornithology Compensation Measures – Paragraph 6	<p>4.6. The undertaker must implement the measures as set out in the OCIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body. [For habitat loss as a result of the construction of Work No. 4, the relevant measures must be in place prior to any dredging or construction works on the intertidal habitat.] For the compensation for disturbance by the increased number of vessels, and no part of the authorised development may begin operation until the implementation of the [relevant] measures set out in the OCIMP must be in place for at least two years prior to the hot commissioning of line 2 of Work No. 1A.</p>	Amended to address comments from Natural England
63	Schedule 11 – Ornithology Compensation Measures – Paragraph 8	<p>8. Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body and made publicly available. This must include details of any finding that the measures have been ineffective in creating suitable roosting site(s) to support any birds that have been displaced through [the habitat loss as a result of the construction of Work No. 4 or] disturbance by the increased numbers of vessels using The Haven</p>	Amended to address comments from the RSPB and Natural England

		as a result of the authorised development and, in such case, proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.	
64	Schedule 11 – Ornithology Compensation Measures – Paragraph 11	8.11. [Unless otherwise agreed in writing by the Secretary of State, the compensation measures in place for habitat loss as a result of affected by the construction and operation of Work No. 4 must be maintained following the decommissioning of Work No. 4, unless the intertidal habitat is reinstated to an acceptable condition to enable waterbirds to return to use this area for roosting.]	Amended for consistency with earlier amendments
65	Schedule 11 – Ornithology Compensation Measures – Paragraph 12	9.12. The OCIMP approved under this Schedule includes any amendments that may subsequently be agreed in writing by the Secretary of State, in consultation with the relevant statutory nature conservation body. Any amendments to or variations of the approved OCIMP must be in accordance with the information principles set out in the ornithology compensation measures document plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any new or materially different environmental effects from those considered in the ornithology compensation measures document plan.	Amended for consistency with earlier amendments
66	Schedule 11 – Ornithology Compensation Measures – Paragraph 13	10.13. In the event of any conflict or inconsistency between the terms of the waterbird compensation measures document plan and the provisions of this Order, the provisions of this Order prevails.]	Consequential amendment