

REPORT

Boston Alternative Energy Facility

Final Schedule of Changes to the Draft Development
Consent Order

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Boston Alternative Energy Facility

Schedule of Changes to the draft Development Consent Order

The documents summarises the proposed amendments to the draft Development Consent Order (DCO) which was submitted at Deadline 10 (7 April 2022). These amendments are to the version of the dDCO submitted at Deadline 9 (document reference 2.1(5), REP9-004). 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.	Part 6 – Miscellaneous – and General – Paragraph 53	<p>Crown rights</p> <p>53.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—</p> <p>(a) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;</p> <p>(b) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or</p> <p>(c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.</p> <p>(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227 of the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.</p>	<p>The Applicant has held discussions with The Crown Estate and negotiations have been ongoing for the dredging and habitat mitigation area land since pre-application. Following recent correspondence from The Crown Estate’s solicitors (30 March 2022), the Applicant has agreed to insert the Crown rights article in the DCO.</p>

		(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions and is deemed to have been given in writing where it is sent electronically.	
2.	Part 6 – Miscellaneous – and General – Paragraph 54	53. 54. [Schedule 11 (ornithology compensation measures) to the Order has effect.]	Renumbering
3.	Schedule 2 – Requirements – Part 1 – Requirements – Paragraph 22 – Decommissioning	22. [...] (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. (4)(3) The scheme as approved under sub-paragraph (1) must be implemented in accordance with the phasing set out therein.	Deleted as any restoration works would be below Mean High Water Springs so under the jurisdiction of the MMO.
4.	Schedule 9 – Deemed Marine License – Part 3 – Conditions – Paragraph 27 – Decommissioning	27. [...] (2) The scheme must include details of structures and buildings to be demolished or retained, details of the means of removal of materials following demolition, phasing of demolition and removal, details of restoration works (including any monitoring) and phasing thereof. (3) [Unless otherwise agreed by the MMO in writing, the mitigation measures in place for habitat loss as a result of the construction of Work No. 4 must be maintained following the	Amendments made in response a question in the Examining Authority's Rule 17 Request for Further Information (PD-15). If the Secretary of State determines that the habitat lost as a result of the

		<p>decommissioning of Work No. 4 and any routine maintenance and adaptive management measures and monitoring must continue whilst the measures are in place.</p> <p>(4) Sub-paragraph (3) does not apply where the MMO, in consultation with the relevant statutory nature conservation body, determines based on monitoring data submitted by the undertaker that the intertidal habitat lost as a result of the construction of Work No. 4 has been restored following the decommissioning of Work No. 4 to provide a similar habitat as was present prior to the works being carried out that has the potential to be used by roosting and foraging birds.]</p> <p>(3)(5) Unless otherwise agreed by the MMO in writing the decommissioning scheme must be implemented in accordance with the phasing set out therein as approved by the MMO.</p>			<p>construction of Work No. 4 does not result in an adverse effect on integrity then this text should be included in the DCO and the text in paragraph 11 of Schedule 11 should be deleted.</p>	
5.	Schedule 9 – Deemed Marine License – Part 5 – Changes to the licence – Paragraph 33	33. [...]	(2) The undertaker must not carry out any licensed activity contrary to the conditions of this licence until a variation to the licence has been approved in writing by the MMO pursuant to its powers under section 72(3) of the 2009 Act.		Amendment made to address comment by the MMO.	
6.	Schedule 10 – Documents and Plans to be Certified – Part 1		(1) <i>Document name</i>	(2) <i>Document reference</i>	(3) <i>Revision number</i>	Updates to reflect latest versions submitted to the Examination at Deadline 10.
		Access and rights of way plans	4.5	0.0		
		Book of reference	3.3	2.0		
		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	1.0		

			Volume 2, 6.3 Volume 3, 6.4		
		Flood risk assessment	6.4.13	0.0	
		Indicative generating station plans	4.9	2±.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 code of construction practice	7.1	0.0	
		Outline construction traffic management plan	7.2	0.0	
		Outline landscape and ecological mitigation strategy	7.4	3±.0	
		Outline lighting strategy	7.5	0.0	
		Outline marine mammal mitigation protocol	9.12	1.0	
		[Outline ornithology compensation implementation and monitoring plan]	[9.81]	[1.0]	
		Outline surface and foul water drainage strategy	9.4	2±.0	
		Outline written scheme of investigation	7.3	2.0	
		Register of environmental actions and commitments	7.6	2.0	
		Roman Bank plan	4.12	0.0	
		Works plans	4.3	2±.0	
7.	Schedule 11 – Ornithology Compensation	Article 54 ⁵³			Renumbering

	Measures – Article reference		
8.	Schedule 11 – Ornithology Compensation Measures – Paragraph 10	10. The compensation measures delivered under this Schedule Part must not be decommissioned without the written approval of the Secretary of State, in consultation with the relevant statutory nature conservation body.	Correction
9.	Schedule 11 – Ornithology Compensation Measures – Paragraph 11	11.—(1) [Unless otherwise agreed in writing by the Secretary of State in writing , the compensation measures in place for habitat loss as a result of the construction of Work No. 4 must be maintained following the decommissioning of Work No. 4 and any routine maintenance and adaptive management measures and monitoring must continue whilst the measures are in place. (2) Sub-paragraph (1) does not apply where the Secretary of State, in consultation with the relevant statutory nature conservation body, determines based on monitoring data submitted by the undertaker that unless the intertidal habitat lost as a result of the construction of Work No. 4 has been restored is reinstated following the decommissioning of Work No. 4 to provide a similar habitat as was present prior to the works being carried out that has the potential to be used by to an acceptable condition to enable waterbirds to return to use this area for roosting and foraging birds.]	Amendments made for consistency with other provisions and for clarity. Amendments made in response a question in the Examining Authorities Rule 17 Request for Further Information.