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11 April 2022

Dear Jo Dowling,

Planning Act 2008 - Application by Ørsted Hornsea Project Four (UK) Limited (“Ltd”) for an Order Granting Development Consent for Hornsea Project Four Offshore Wind Farm

Submission in Lieu of attendance at Issue Specific Hearing 1 (“ISH1”) on Tuesday 12 April 2022.

Thank you for the invitation from the Examining Authority (“ExA”) for the Marine Management Organisation (“MMO”) to speak at ISH1. In the interests of efficient team resource management, the MMO will not be attending ISH1. This is due to capacity issues faced by the MMO at present. However, we have reviewed the detailed agenda and would like to offer our comments in writing on the agenda items we consider to be of relevance to the MMO. Additionally, we are happy to address any further points in writing as part of any future Written Questions from the ExA, and we will continue to provide written representations at each future deadline until such time as the examination comes to a close.

This written representation is submitted without prejudice to any future representation the MMO may make about the Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.



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1. Agenda Item 1: Welcome, introductions, arrangements for the hearing

1.1 No Comment.

2. Agenda Item 2: Articles and Schedules of the draft DCO (excluding Schedules 1, 9 and 15)

2.1 DCO:

DCO Part 2: Article 5

- 2.1.1 The MMO has concerns regarding the transfer of the DMLs based on the current drafting and requests that all references to the MMO and DMLs should be removed from Article 5 of the DCO.
- 2.1.2 This is because the intention under the Planning Act Section 149A is only to amend the method by which a marine licence is obtained, it does not, of itself, make a DML part and parcel of the Order. As currently drafted, the DMLs become part of the DCO by having Article 5 apply to the DMLs, allowing the transfer of the whole or part of the benefit of the provisions of the DMLs.
- 2.1.3 The MMO does not consider that there is a need to have the Order make provision for transferring of the DMLs in Article 5 as there is already a mechanism for transferring the DMLs under the Marine and Coastal Access Act 2009 (MCAA). In the MMO's view Article 5 should be reserved to the transfer of the Order and should not refer to the DMLs. The DMLs should be considered separately and dealt with under MCAA, as would happen for any other marine licence.

3. Agenda Item 3: Schedules 1, 11 and 12 of the draft DCO – Requirements and Conditions

- 3.1.1 "The 2009 Act"- The MMO notes you would expect to see a footnote for this (e.g., "2009 c. 23").
- 3.1.2 "Kingfisher Information Service"- The MMO notes that there is currently no definition of this, and it is used at Condition 7(8) and 7(13).
- 3.1.3 "MCA"- The MMO advises that at end of the definition "the executive agency of the Department for Transport" is inserted.
- 3.1.4 "the offshore Order limits and grid coordinates plan"- The MMO recommends reinstating the title of Article 38, its inclusion provides certainty as to which Article it is a reference to, especially as once granted the Order and the DML may develop separately from one another. This comment is relevant throughout the DML, particularly the MMO identifies for: "outline marine mammal mitigation protocol"; "outline marine written scheme of archaeological investigation"; "outline southern north sea special area of conservation site integrity plan"; "pro-rata annex".



3.1.5 “Outline Marine Monitoring Plan”- The MMO advises a definition is added for the “Outline Marine Monitoring Plan”, as it is currently included under Schedule 15 as a certified document.

3.1.6 “UK Hydrographic Office”- the MMO notes that the definition should state “United Kingdom” and not “UK” as currently drafted.

Schedule 11: Part 1: Article 1 (6)

3.1.7 The MMO advises that for references to the Marine Case Management System, “MCMS”, it should be expanded on its first use to give the full name of the system followed by “(MCMS)” or alternatively include “MCMS” as a defined term under Part 1, Article 1(1).

Schedule 11: Part 1: Article 2 (a)

3.1.8 The MMO notes that “Order limits” are defined within the DCO Part 1 Article 2(1), but not within the DMLs. We advise that definitions are added as they are referenced throughout the DMLs.

Schedule 11: Part 1: Article 2 (h)

3.1.9 The MMO notes that the addition of drill arisings to this section has not been actioned. The MMO requested the addition of “(h) the disposal of drill arisings in connection with any foundation drilling up to a total of 399,776 cubic metres” or clarity added to Article 2 (a) on the volumes of drill arisings. We note the Applicant’s response to this within their “Responses to RR” at Deadline 1 “*The Applicant believes that the volumes of materials that will need to be disposed of is already sufficiently covered by the current drafting of the DMLs. The Applicant notes that it was not required to specify the volumes of drill arisings to be disposed of in the DCO for Hornsea Project Three.*” The MMO maintains that this addition should be made to secure clarity on the matter.

Schedule 11: Part 1: Article 4

3.1.10 The MMO agrees with the definition of “order limits” provided by the Applicant.

Schedule 11: Part 1: Article 7

3.1.11 The MMO reiterates that this provision is not required, in relation to our comments under “DCO Part 2: Article 5” of this submission.

Schedule 11: Part 1: Article 9

3.1.12 The MMO has outlined its concerns regarding the use of “immaterial changes”, “materially new or materially greater environmental effects” within its Written Representation RR-020 sections 2.1.16-2.1.20.



3.1.13 We note that the Applicant has replied to our concerns within their “Responses to RR” at Deadline 1. *“The Applicant considers that the current drafting in paragraph 9 of Part 1 the DMLs is sufficient. This is in line with the drafting on similar projects such as Hornsea Project Three, Norfolk Vanguard and Norfolk Boreas. Paragraph 9 of each DML states:*

“Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially greater environmental effects from those assessed in the environmental statement.”

3.1.14 Whilst the MMO appreciates the clarity provided for the requirement of the Applicant to satisfy the MMO of any changes, the MMO’s concerns remain for the use of “immaterial changes” used within this Article.

3.1.15 The Applicants comments *“The Environmental Statement captures the results of the EIA, meaning that this paragraph limits the activities permitted by the DCO and DMLs to those assessed by the EIA. Any change to approved details which leads to a change in the likely significant effects assessed in the Environmental Statement would be considered material and would no longer be authorised by the DMLs.”* (within their same comments in “Responses to RR” at Deadline 1) provides us with comfort, however, the use of the wording “immaterial changes” continues to leave this unclear within the DCO and DMLs. The Applicant could add the later comments within a definition for “immaterial changes” within Article 1 of the DML and this could resolve this matter.

Schedule 11: Part 2: Article 4

3.1.16 The MMO reiterates its comments made within section 2.5.16 of RR-020 regarding the maintenance of the authorised development. *“The MMO does not agree that maintenance can take place prior to approval of an operation and maintenance plan regardless of activities being assessed within the ES. The MMO believes that an additional condition to provide an Operation and Maintenance plan to be submitted to the MMO six months prior to any maintenance works taking place should be included within the DML.”*

Schedule 11: Part 2: Article 4 (2)

3.1.17 The MMO notes that the term “maintenance works” is not currently defined and advises that it is.

Schedule 11: Part 2: Article 4 (4)

3.1.18 The MMO reiterates its comments outlined within the section “Schedule 11: Part 1: Article 9” of this submission.

Schedule 11: Part 2: Article 5 (1)



3.1.19 The MMO notes that the phrase “under its control” should be deleted as it restricts the provision to only those vessels under the direct control of the undertaker and not agents or contractors.

Schedule 11: Part 2: Article 6

3.1.20 The MMO advises that “such agreement not to be unreasonably withheld or delayed” should be inserted at the end of this condition, as within condition 14 (3).

Schedule 11: Part 2: Article 7 (1)(a)(ii)

3.1.21 The MMO reiterates its comments from RR-020 (2.5.22) “*The MMO requests clarity on what “transport managers” are.*”

Schedule 11: Part 2: Article 7 (1)(b)

3.1.22 The MMO requests clarity on what the “confirmation form” is, and raises whether it should be included under Part 1 Article 1(1)?

Schedule 11: Part 2: Article 7 (7)

3.1.23 The MMO flags the inconsistency with the use of “Local Office” or “local office” and advises updates accordingly.

Schedule 11: Part 2: Article 7 (8)

3.1.24 The MMO reiterates that “Kingfisher Information Service” is not currently defined and advises it should be under Part 1, Article 1(1).

Schedule 11: Part 2: Article 7 (8)(b)

3.1.25 The MMO flags whether the term “all offshore activities” is sufficiently clear?

Schedule 11: Part 2: Article 7 (10)

3.1.26 The MMO flags whether the term “construction activities” is sufficiently clear?

Schedule 11: Part 2: Article 7 (11)

3.1.27 The MMO advises that “within 24 hours of the notification” is added to the end of this provision.

Schedule 11: Part 2: Article 7 (13)

3.1.28 The MMO reiterates that “Kingfisher Information Service” is not currently defined and advises it should be under Part 1, Article 1(1). Furthermore, the MMO requests that “service” is replaced with “notification to” for consistency within the provision.



Schedule 11: Part 2: Article 7 (14)

3.1.29 The MMO requests the addition of “in writing” after “MMO” on the first line.

Schedule 11: Part 2: Article 8 (2)

3.1.30 The MMO requests the addition of “in writing” after “MMO informed” on the final line.

Schedule 11: Part 2: Article 8 (6)

3.1.31 The MMO notes that “UK Standard Marking Schedule for Offshore Installations” should be defined under Part 1, Article 1(1).

Schedule 11: Part 2: Article 10(2)

3.1.32 The MMO notes that the penultimate line “paragraph” should be changed to “condition”.

Schedule 11: Part 2: Article 11(1)

3.1.33 The MMO requests clarity as to whether the “Offshore Chemicals Regulations 2002” is correctly referenced, we are unable to locate a reference to a “List of Notified Chemicals” within them.

Schedule 11: Part 2: Article 11(2)

3.1.34 The MMO notes that this provision is worded differently to the one within Schedule 12, Part 2, Article 11, which adds “guidelines approved by Health and Safety Executive **and the Environment Agency**.” The MMO requests clarity as to whether “the Environment Agency” should be included within this provision?

Schedule 11: Part 2: Article 11(7)

3.1.35 The MMO flags the inconsistency with the use of “Local Office” or “local office” and advises updates accordingly.

3.1.36 Furthermore, the MMO requests that following “Local Office”, “in writing” is inserted and that “at their own expense” is also inserted at the end of the condition.

Schedule 11: Part 2: Article 11(9)

3.1.37 The MMO requests that “in writing” is inserted after “is reported” on second line.

Schedule 11: Part 2: Article 11(10)

3.1.38 The MMO notes that “Dropped Object Procedure Form” is not defined and should be.



3.1.39 The MMO further queries why the Applicant has increased the period from 24 to 48 hours?

3.1.40 The MMO advises a 6 hour period for reporting dropped objects which are considered a danger or hazard to navigation.

Schedule 11: Part 2: Article 12

3.1.41 The MMO has now reviewed this Article following our submission RR-020 and comments as follows:

3.1.42 The MMO advises that this provision is not necessary, there is already a defence under Section 86 of MCAA. It provides a defence for action taken in an emergency in breach of any licence conditions. The MMO requires justification or rationale as to why this provision is considered necessary by the Applicant.

Schedule 11: Part 2: Article 13(1)

3.1.43 The MMO requests the insertion of “authorised” before “project” in the first line.

Schedule 11: Part 2: Article 13(1)(e)

3.1.44 The MMO requests the insertion of “in writing” after “resubmitted”.

Schedule 11: Part 2: Article 13(1)(h)(ii)

3.1.45 The MMO notes that the term “Chart Datum” is not defined and should be.

Schedule 11: Part 2: Article 13(1)(j)

3.1.46 The MMO requests that “in writing” is inserted after “has been submitted” on line 4.

Schedule 11: Part 2: Article 13(2)(f)

3.1.47 The MMO queries whether contact details for the National Record of the Historic Environment are needed?

Schedule 11: Part 2: Article 13(2)(g)

3.1.48 The MMO requests clarity as to whether “the Offshore Renewables Protocol for Reporting Archaeological Discoveries” should be referenced stating version and date and as amended, updated, or superseded from time to time? We also advise a definition is added in Part 1, Article 1(1).

Schedule 11: Part 2: Article 13(5)

3.1.49 The MMO request that “HVAC search area” is defined in Part 1, Article 1(1).



Schedule 11: Part 2: Article 13(6)

3.1.50 The MMO advises that the “Outline fisheries coexistence and liaison plan” should be listed under Schedule 15.

Schedule 11: Part 2: Article 13(8)

3.1.51 Without prejudice to our comments under section “DCO Part 2: Article 5” of this submission, the MMO is unclear as to the purpose of this provision. It relates to the relationship between the licence holder and any third party to which the benefit of the Order has been transferred to and does not relate to the relationship between the MMO and the undertaker.

Schedule 11: Part 2: Article 13(9)

3.1.52 The MMO requests that specific reference to “must be chaired by the MMO” is removed as it is overly restrictive.

Schedule 11: Part 2: Article 14(1)

3.1.53 The MMO notes that “HVAC booster station lighting plan” is not defined, but that a definition is included within Schedule 12, Article 1(1) which can be replicated in Schedule 11.

Schedule 11: Part 2: Article 14(3)

3.1.54 The MMO recognizes that the wording “must determine” obliges the MMO to comply with this time frame. Whilst we appreciate that there is provision for this time period to be altered through agreement by the judgement of the undertaker, we request the following amendment.

3.1.55 The MMO requests the following wording to be added at the end of the clause “such agreement not to be unreasonably withheld or delay”.

Schedule 11: Part 2: Article 24(1)

2.2.56 The MMO requests the phrase “in writing” is moved to follow “close out report” in line 1.

3.2 Schedule 12:

Schedule 12: Part 1: Article 1(1)

3.2.1 “array area disposal site”- The MMO notes this definition differs from Schedule 11, Article 1(1), and that they should mirror each other.

3.2.2 “authorised development”- The MMO notes this definition differs from Schedule 11, Article 1(1), and that they should mirror each other.



- 3.2.3 "HVAC booster station lighting plan"- The MMO recommend reinstating the title of Article 38 (which we note is deleted in this draft), its inclusion provides certainty as to which Article it is a reference to, especially as once granted the DCO and the DML may develop separately from one another. Please note that this is relevant throughout the DML. Specifically, the MMO note, for "layout principles"; "the offshore Order limits and grid coordinates plan"; "outline marine written scheme of archaeological investigation"; "Outline Southern North Sea special area of conservation site integrity plan"; "pro-rata annex"
- 3.2.4 "Kingfisher Information Service"- the MMO notes that there is currently no definition of this, and it is used within Condition 7(8).
- 3.2.5 "MCA"- The MMO requests that at end of definition "the executive agency of the Department for Transport" is inserted.
- 3.2.6 "mean low water springs"- The MMO note this definition is currently missing and is used at Part 1 Article 3(e), and that definition could be adopted from Schedule 11 Part 1 Article 1(1).
- 3.2.7 "transition piece"- The MMO notes that no definition is included; however, the term is used in the definition of "wind turbine generator". The definition could be adopted from Schedule 11 Part 1 Article 1(1).
- 3.2.8 "UK Hydrographic Office"- The MMO note that the definition should state "United Kingdom" and not "UK" as currently drafted.

Schedule 12: Part 1: Article 1(6)

- 3.2.9 The MMO advises that for references to the Marine Case Management System, "MCMS", it should be expanded on its first use to give the full name of the system followed by "(MCMS)" or alternatively include "MCMS" as a defined term under Part 1, Article 1(1).

Schedule 12: Part 1: Article 2(a)

- 3.2.10 The MMO notes that "Order limits" are defined within the DCO Part 1 Article 2(1), but not within the DMLs. We advise that definitions are added as they are referenced throughout the DMLs.

Schedule 12: Part 1: Article 2(b)

- 3.2.11 The MMO flags where the term "works" is sufficiently clear?

Schedule 12: Part 1: Article 2(h)

- 3.2.12 Please see comments regarding the disposal of drill arisings under "Schedule 11: Part 1: Article 2 (h)" of this submission.

Schedule 12: Part 1: Article 3: Work No. 2 (c)



3.2.13 There is currently no definition of “HVDC” within the DML which should be added.
This is also applicable to Schedule 12: Part 1: Article 3: Work No. 3 (a) & (b)

Schedule 12: Part 1: Article 3: Work No. 2 (e)

3.2.14 The MMO note that “MLWS” is currently not defined and suggest the definition could be adopted from Schedule 11 Part 1 Article 1(1).

Schedule 12: Part 1: Article 4

3.2.15 The MMO reiterates that this provision not required, in relation to our comments under “DCO Part 2: Article 5” of this submission.

Schedule 12: Part 1: Article 9

3.2.16 Please see comments under “Schedule 11: Part 1: Article 9”. This is also applicable to Schedule 12: Part 2, Article 4.

Schedule 12: Part 2: Article 4(2)

3.2.17 The MMO notes that the term “maintenance works” is not currently defined and advises that it is.

Schedule 12: Part 2: Article 5(1)

3.2.18 The MMO notes that the phrase “under its control” should be deleted as it restricts the provision to only those vessels under the direct control of the undertaker and not agents or contractors.

Schedule 12: Part 2: Article 6

3.2.19 The MMO advises that “such agreement not to be unreasonably withheld or delayed” should be inserted at the end of this condition, as within condition 14 (3).

Schedule 12: Part 2: Article 7(1)(a)(ii)

3.2.20 The MMO reiterates its comments from RR-020 (2.5.22) “*The MMO requests clarity on what “transport managers” are.*”

Schedule 12: Part 2: Article 7(1)(b)

3.2.21 The MMO requests clarity on what the “confirmation form” is, and raises whether it should be included under Part 1 Article 1(1)?

Schedule 12: Part 2: Article 7(7)



3.2.22 The MMO flags the inconsistency with the use of “Local Office” or “local office” and advises updates accordingly.

Schedule 12: Part 2: Article 7(8)

3.2.23 The MMO reiterates that “Kingfisher Information Service” is not currently defined and advises it should be under Part 1, Article 1(1). Applicable to Schedule 12: Part 2: Article 7(13).

3.2.24 The MMO also advises that “part-” at the end of the second line should be replaced with “stage” for consistency with provision in Schedule 11.

Schedule 12: Part 2: Article 7(8)(b)

3.2.25 The MMO flags whether the term “all offshore activities” is sufficiently clear?

Schedule 12: Part 2: Article 7(10)

3.2.26 The MMO flags whether the term “construction activities” is sufficiently clear?

Schedule 12: Part 2: Article 7(11)

3.2.27 The MMO advises that “within 24 hours of the notification” is added to the end of this provision. The MMO also advises that “both” is deleted for consistency with provision at Schedule 11.

Schedule 12: Part 2: Article 7(13)

3.2.28 The MMO reiterates that “Kingfisher Information Service” is not currently defined and advises it should be under Part 1, Article 1(1). Furthermore, the MMO requests that “service” is replaced with “notification to” for consistency within the provision.

Schedule 12: Part 2: Article 7(14)

3.2.29 The MMO requests the addition of “in writing” after “MMO” on the first line.

Schedule 12: Part 2: Article 8(2)

3.2.30 The MMO requests the addition of “in writing” after “MMO informed” on the final line.

Schedule 12: Part 2: Article 8(6)

3.2.31 The MMO notes that “UK Standard Marking Schedule for Offshore Installations” should be defined under Part 1, Article 1(1).

Schedule 12: Part 2: Article 10(2)



3.2.32 The MMO notes that the penultimate line “paragraph” should be changed to “condition”.

3.2.33 The MMO also advises that “within 24 hours of the notification” is added to the end of this provision.

Schedule 12: Part 2: Article 11(1)

3.2.34 The MMO requests clarity as to whether the “Offshore Chemicals Regulations 2002” is correctly referenced, we are unable to locate a reference to a “List of Notified Chemicals” within them.

Schedule 12: Part 2: Article 11(2)

3.2.35 The MMO notes that this provision is worded differently to the one within Schedule 11, Part 2, Article 11, which doesn’t include “guidelines approved by Health and Safety Executive **and the Environment Agency.**” (Emphasis added). The MMO requests clarity as to whether “the Environment Agency” should be included within this provision?

Schedule 12: Part 2: Article 11(7)

3.2.36 The MMO flags the inconsistency with the use of “Local Office” or “local office” and advises updates accordingly.

3.2.37 Furthermore, the MMO requests that following “Local Office”, “in writing” is inserted and that “at their own expense” is also inserted at the end of the condition.

Schedule 12: Part 2: Article 11(9)

3.2.38 The MMO requests that “in writing” is inserted after “is reported” on second line.

Schedule 12: Part 2: Article 11(10)

The MMO notes that “Dropped Object Procedure Form” is not defined and should be.

3.2.39 The MMO further queries why the Applicant has increased the period from 24 to 48 hours?

3.2.40 The MMO advises a 6 hour period for reporting dropped objects which are considered a danger or hazard to navigation.

Schedule 12: Part 2: Article 12

3.2.41 The MMO has now reviewed this Article following our submission RR-020 and comments as follows.



3.2.42 The MMO advises that this provision is not necessary, there is already a defence under Section 86 of MCAA. It provides a defence for action taken in an emergency in breach of any licence conditions. The MMO requires justification or rationale as to why this provision is considered necessary by the Applicant.

Schedule 12: Part 2: Article 13(1)

3.2.43 The MMO requests the insertion of “authorised” before “project” in the first line.

Schedule 12: Part 2: Article 13(1)(a)

3.2.44 The MMO notes that “or in such other format as may be appropriate” is additional text from the same provision in Schedule 11, please can the Applicant confirm if it should it be included?

Schedule 12: Part 2: Article 13(1)(a)(iv)

3.2.45 The MMO notes “gravity base structures” are defined and requests clarity as to whether “pontoon gravity base type 1 structures” and “pontoon gravity base type 2 structures” are deemed sufficiently clear or whether these extended terms/references should be defined?

Schedule 12: Part 2: Article 13(1)(e)

3.2.46 The MMO requests that “in writing” is inserted after “resubmitted”.

Schedule 12: Part 2: Article 13(1)(g)

3.2.47 The MMO flags that following “mitigation protocol” line 2, the phrase “for that stage” is not included, whereas it is in Schedule 11 part 2 13(1)(g). We notes these should be consistent.

Schedule 12: Part 2: Article 13(1)(h)(ii)

3.2.48 The MMO notes that the term “Chart Datum” is not defined and should be.

Schedule 12: Part 2: Article 13(1)(h)(iii)

3.2.49 Following “crossing, and” the following additional text appears that is not in the same provision in Schedule 11 “proposals for timing and methodology for reporting on actual volumes and areas post construction within that stage”. The MMO requests clarity on this differentiation.

Schedule 12: Part 2: Article 13(1)(j)

3.2.50 The MMO requests “in writing” is inserted after “has been submitted” on line 4.

Schedule 12: Part 2: Article 13(1)(k)



3.2.51 The MMO notes that there is no requirement for an ornithological monitoring plan as there is in Schedule 11 and there should be. There is also a related provision missing at Condition 17(2)(b) and 19(2)(c) of this Schedule.

Schedule 12: Part 2: Article 13(1)(k)

3.2.52 At the end of the provision in Schedule 11 there is the following wording “including provision of report on such monitoring”, this wording should also be included here.

Schedule 12: Part 2: Article 13(2)(f)

3.2.53 The MMO queries whether contact details for the National Record of the Historic Environment are needed?

Schedule 12: Part 2: Article 13(2)(g)

3.2.54 The MMO requests clarity as to whether “the Offshore Renewables Protocol for Reporting Archaeological Discoveries” should be referenced stating version and date and as amended, updated, or superseded from time to time? We also advise a definition is added in Part 1, Article 1(1).

Schedule 12: Part 2: Article 13(5)

3.2.55 The MMO notes that the numeral “2” at line two should be replaced with the word “two”. Furthermore, we request that “HVAC search area” is defined in Part 1, Article 1(1).

Schedule 12: Part 2: Article 13(6)

3.2.56 The MMO advises that the “Outline fisheries coexistence and liaison plan” should be listed under Schedule 15.

Schedule 12: Part 2: Article 13(7)

3.2.57 The MMO notes that in order to clarify these provisions the issues with DCO Article 5, in relation to the DML, must be resolved. See comments under section “DCO Part 2: Article 5” of this submission.

Schedule 12: Part 2: Article 13(8)

3.2.58 Without prejudice to our comments for “DCO Part 2: Article 5” of this submission, the MMO is unclear as to the purpose of this provision. It relates to the relationship between the licence holder and any third party to which the benefit of the Order has been transferred to and does not relate to the relationship between the MMO and the undertaker.

Schedule 12: Part 2: Article 13(9)



3.2.59 The MMO requests that specific reference to “must be chaired by the MMO” is removed as it is overly restrictive.

Schedule 12: Part 2: Article 14(3)

3.2.60 The MMO recognizes that the wording “must determine” obliges the MMO to comply with this time frame. Whilst we appreciate that there is provision for this time period to be altered through agreement by the judgement of the undertaker, we request the following amendment.

3.2.61 The MMO requests the following wording to be added at the end of the clause “such agreement not to be unreasonably withheld or delay”.

Schedule 12: Part 2: Article 16(1)(b)

3.2.62 The MMO notes that the wording inserted in this draft differs between Schedule 11 and Schedule 12. For consistency the wording at the end of 16(1)(b) should read: “including the master’s name, vessel type, vessel IMO number and vessel over operating company.”

Schedule 12: Part 2: Article 18(3)

3.2.63 The MMO notes that the following wording is included in Schedule 11 but is missing from the same provision in Schedule 12 and should be included. The wording follows the end of the provision and is: “for the MMO to determine whether any further noise monitoring will be required.”

Schedule 12: Part 2: Article 19(1)

3.2.64 The MMO notes the following wording is included in Schedule 11 but is missing from the same provision in Schedule 12 and should be included. The wording is after “stage” on line 2: “in accordance with an outline marine monitoring plan” (see further comment on this wording below).

Schedule 12: Part 2: Article 21(2)

3.2.65 The MMO that “in writing” is inserted after “MMO”.

Schedule 12: Part 2: Article 23

3.2.66 The MMO does not agree with the current seasonal restriction of “between 1st September to 16 October each year” in Schedule 12, Part 2, Condition 23 and requests that this is updated to “between 1st August and 31st October each year”. Details of the reasoning for this request are set out within sections 3.7.32 to 3.7.36 of RR-020.

3.3 Major comments relating to both Schedule 11 and Schedule 12:



Part 2, Condition 14

- 3.3.1 The MMO has concerns over these timescales as it is not enough time to fully assess and review documents and therefore request that this is changed to six months.
- 3.3.2 Condition 14 sets out the requirements for the Applicant to submit all pre-construction documentation at least four months prior to the commencement of the construction works. The MMO does not agree that a four month timescale provides sufficient time for the post consent documentation to be considered prior to the start of commencement of works. The MMO believes that a four month pre-construction submission date is unrealistic and even counterproductive, as the pre-construction sign-off process is not always straight forward.
- 3.3.3 The four month timescale was deemed appropriate for round 1 developments, which were smaller, closer to shore and with fewer complex environmental concerns. The documents in question require in depth analysis by both MMO staff and statutory consultees and as such, there needs to be as much time as practically possible to allow this process to take place.
- 3.3.4 It is very common that documents submitted under these type of conditions require multiple rounds of consultation to address stakeholder concerns. This process alone can be very time consuming and the proposed four month submission time would not account for any additional time that the Applicant may require to update documents throughout the process. The MMO further notes that some documents require additional assessment processes, for example a Southern North Sea (“SNS”) Special Area of Conservation (“SAC”) Site Integrity Plan (“SIP”) may require post consent Habitats Regulations Assessment (“HRA”) considerations to be made. The MMO appreciates that the Applicant could be working within tight time schedules post consent, and as such, we advise that a more suitable timescale is provided to reduce risks that could lead to project delays.
- 3.3.5 For example, the timescale of one in depth plan (such as SNS SIP) could potentially follow this path: a) Up to 4 weeks to acknowledge and review the document within the MMO. b) Up to 6 weeks for external consultation with stakeholders on this documentation. c) Up to 4 weeks once consultation is closed to allow for the MMO to review the responses and possibly ask for additional information from the Applicant. At this stage the MMO and the Applicant could be in discussion to agree on an approach to the responses. d) Up to four weeks to allow for the Applicant to undertake any actions resulting from any MMO request for further information. Depending on the level of detail, and Applicant resources, this could represent a further significant time period. e) Once actions are completed and information is returned to the MMO, the MMO could need to undertake new consultations.
- 3.3.6 It is noted from the above that, even if the discharge of documentation were to follow the current estimated timescales, and no further communication was required from the Applicant (which is highly unlikely) the current estimated turnaround equates to 18 weeks, which is longer than the 16 weeks suggested by the Applicant. It should also be noted that the above timescale applies to only one



document, when in reality, the number of in-depth discharge requirements could far exceed 30 in total.

- 3.3.7 The MMO recognises that the current draft outlines that the 4 month timing could be changed with written agreement of the MMO. The MMO notes that the condition wording implies that it is for the Applicant to request a change and for the MMO to agree. It is far more likely that the Applicant will ask the MMO to reduce timescales for certain documents, as has been the MMO's experience thus far.
- 3.3.8 The MMO considers it is important to address the practicalities of these types of signoff as well as the specific wording held within the consent. If the works are submitted 4 months prior to the construction start date then there is risk that the Applicant will have already begun preparing for construction. If sign off cannot be achieved within the 4 month window then there is a risk that the Applicant will face cost implications of this, for instance the costs from vessels sitting idle and the potential need to resource storage areas for wind farm infrastructure components that should have been installed. By amending the submission timescale to 6 months there is more time to undertake the required process with less risk of needing an extension or the Applicant facing delays.

MMO Determination

- 3.3.9 Condition 14 (3) includes a specified determination period within which the MMO must determine whether or not to issue consent under this condition. The MMO strongly considers it inappropriate to put timeframes on decisions of such a nature. The MMO would not willingly seek to constrain our ability to make an appropriate and timely decision on post consent sign-off of plans and documentation.
- 3.3.10 Under such tight restrictions if the evidence obtained does not provide the MMO with confidence that risks have been dealt with robustly, the determination may result in a refusal of the application for discharge. The undertaker would then have to restart the process and provide updated documentation in this instance.
- 3.3.11 The MMO acknowledges that the Applicant may wish to create certainty around when to expect a determine on applications for approvals required under the conditions of a licence, and whilst the MMO acknowledges that delays can be problematic for developers the MMO advises that it does not delay determining whether to grant or refuse such approvals unnecessarily, we make determinations in as timely a manner as is possible.
- 3.3.12 The MMO's view is that it is for the developer to ensure that it applies for any such approval in sufficient time as to allow the MMO to properly determine whether to grant or refuse the approval application. Therefore the provision under condition 14 (3) should be removed from the DML, notwithstanding this the MMO recommends a timescale of 6 months for submission of all discharge documents.



4. Agenda Item 4: Schedule 9 of the Draft DCO – Protective provisions

- I) All Protective Provisions other than those suggested by the applicant and BP Exploration Operating Company Ltd (BP) as set out in [REP1-057]**
- II) Protected Provisions suggested by the Applicant and BP [REP1-057] with regard to the overlap zone**

4.1 The MMO will review the comments provided at the hearing and provide any necessary comments at a subsequent deadline.

5. Agenda Item 5: Schedule 15 of the draft DCO – Documents to be certified

5.1 The MMO notes that this Project has included a Commitments Register within Schedule 15 of the DCO as a document to be certified, which we have not seen within DCO Applications before. We request clarity on how it secures the list of mitigation within it, and how it is enacted when there is no specific reference to it that we are aware of within the Articles of the DCO or DMLs.

6. Agenda Item 6: Securing of HRA compensation measures that have been advanced on a without prejudice basis

6.1 The MMO defers to Natural England's advice regarding HRA compensation measures.

7. Agenda Item 7: Consents, licences and other agreements including any Transboundary matters

7.1 The MMO have no comments to make however we will review any information provided from this item at this time and will provide any necessary comments at a subsequent deadline.

8. Agenda Item 8: Action Points Arising from the Hearing

8.1 The MMO will review the action points when they are provided and make any comments/actions if required at a subsequent deadline.

Yours Sincerely

[Redacted signature]

Gregg Smith
Marine Licencing Case Officer

[Redacted contact information]

