



# Marine Management Organisation

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## (Email only)

MMO Reference: DCO/2020/00002  
Planning Inspectorate Reference: EN010114

15 February 2022

Dear Sir/Madam,

## **Planning Act 2008, Proposed Keadby Low Carbon Gas Power Station Deadline 3 Submission**

This document comprises the Marine Management Organisation's (MMO) Deadline 3 response in respect to the above Development Consent Order (DCO) Application. This is without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This is also 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.

The MMO reserves the right to modify its present advice or opinion in view of any additional matters or information that may come to our attention.

Yours faithfully

Nicola Wilkinson  
Marine Licensing Case Officer

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## 1 Comments on Written Representations

### 1.1 REP2-022 Environment Agency - Deadline 2 Submission - Written Representation

1.1.1 The MMO note the Environment Agency's (EA) comments regarding preference to the location of the Fish Management Plan, within the Deemed Marine Licence (DML) either as a stand-alone condition or within the Construction Environment Management Plan (CEMP). The MMO agree with the EA, and would refer to our Deadline 1 Response (REP1-025) where this was also advised (paragraph 2.2.1).

## 2 Comments on any information submitted for Deadline 2

### 2.1 Deemed Marine Licence

2.1.1 Part 1 (1) – The MMO recommend the “2009 Act” definition should be further up the list and should features above “authorised deposits”.

2.1.2 Part 1 (1) – The MMO note that a definition has been provided for the “English Inshore Region”, however, it does not appear to be mentioned again within the DML. If this is the case then the MMO suggest that it is not required to be listed within the definitions.

2.1.3 Part 1 (1) – The MMO has had the opportunity to review the definition of “maintain” as defined in Article 2 of the DCO. The MMO suggest that a separate definition of “maintain” is included within Part 1(1) of the DML, and the interpretation is amended to remove reference to ‘adjust’, ‘improve’.....to be in accordance with the MMO’s interpretation of maintain/maintenance which is – ‘upkeep or repair an existing structure or asset wholly within its existing three dimensional boundaries’, as described on the MMO gov.uk webpage: (<https://www.gov.uk/guidance/construction-alteration-or-improvement-of-works>).

2.1.4 Part 1 (1) – The MMO request in the definition of “undertaker” the company registration number for Keadby Generation Limited is included.

2.1.5 Part 1(4)(a) – The MMO suggest it might be useful to include email contact details for the MMO for future communication. The MMO suggest the following wording might be beneficial:

*(1) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this licence is [marine.consents@marinemanagement.org.uk](mailto:marine.consents@marinemanagement.org.uk) or where contact to the local MMO office is required is [northshields@marinemanagement.org.uk](mailto:northshields@marinemanagement.org.uk)*

*(2) Unless otherwise advised in writing by the MMO, MCMS must be used for all licence returns or applications to vary this licence. The MCMS address is:*

[REDACTED]

2.1.6 Part 2(2) – As the definition for “undertaker” in Part 1(1) includes ‘agents & contractors acting on their behalf’, the MMO do not consider it is necessary to repeat these details here.



- 2.1.7 Part 2 Table 9. For consistency the MMO recommend the zero in “Works No. 05” is not necessary
- 2.1.8 Part 2 (5)(b) – The MMO note that Mean High Water Springs (MHWS) does move over time, and this is made clear in its definition. The MMO do not consider it necessary to include a provision which addresses the potential movement over time. The MMO would like clarification from the applicant as to why they are seeking this to be included within the DML.
- 2.1.9 Part 2 (7) – The MMO note that this would grant the Applicant permission to deviate from the provisions of the Marine and Coastal Access Act (MCAA) and seek further clarification as to why this provision is necessary. Once a DCO is granted the DML falls under the administration of the MMO and governed by MCAA, therefore, the MMO do not see this provision is necessary. The MMO would welcome clarification on this from the Applicant.
- 2.1.10 The MMO note that there is currently no definition of ‘office hours’ or business days/working days. The MMO note that the Draft DCO for Sizewell C currently has the following wording:
- “business day” means a day other than a Saturday or a Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971;
  - “business hours” means the period from 09:00 until 17:00 on any business day.
- 2.1.11 Part 3 (9)(3)(c) – The MMO note the term for ‘transport managers’ is not defined, and suggest this phrasing is either included within the definitions under Part 1 of the DML’s or is removed from the sentence.
- 2.1.12 Part 3 (9)(6) – The MMO recommend amending UK Hydrographic office to be United Kingdom Hydrographic Office.
- 2.1.13 Part 3 (10) - The MMO request the inclusion of the following wording to be placed after (‘CEMP’): “in writing to and approved in writing by the MMO. The CEMP must cover ...”
- 2.1.14 Part 3 (10) & (11) – The MMO note there is some inconsistency with draughting language. e.g “Not later than 8 weeks ahead of commencement of works” and “submit a marine method statement... at least 8 weeks prior to the proposed commencement”.
- 2.1.15 Part 3 (11) - The MMO recommend ‘Marine Method Statement’ is abbreviated to ‘MMS’ throughout the DML.
- 2.1.16 Part 3 (11) - As with 2.1.13 the MMO would like the inclusion of “in writing to and approved in writing by the MMO”.
- 2.1.17 Part 3 (1)(e) - The MMO note that there is currently no definition for ABP Humber within Part 1(1) of the DML





- 2.1.18 Part 3 (1)(e) & (12) – The MMO request all references to “shall” be replaced with “must”, as these are requirements of the DML.
- 2.1.19 Part 3 (13) - The MMO request that further detail of the information required is included. At a minimum it should contain the following: name, address, company number where appropriate and function. The MMO consider that there should also be provision for any changes to the agents, contractors or sub-contractors to be notified to the MMO included within the DML.
- 2.1.20 Part 3 (17) – The MMO note that there is currently no definition for “river”, the MMO recommend the applicant adopt the definition in the Order.
- 2.1.21 Part 3 (18)(1) - The MMO note that current wording states ‘vibratory’ piling must be used as standard, with percussive piling only used if required to drive a pile to its design depth. The MMO suggest the following wording is also included at the end of the sentence’: and drill or vibro piling has been unsuccessful.
- 2.1.22 Part 3 (19) – As noted in paragraph 2.1.18, the MMO request all references to “shall” be replaced with “must”, as these are requirements of the DML.
- 2.1.23 Part 3 (20) – The MMO suggest moving condition 20 to after condition 17 as they are both connected.
- 2.1.24 Part 3 (20) – The MMO recommend for consistency the wording of “water environment” is amended to “marine environment”.
- 2.1.25 Part 3 (24) – The MMO note that this should also include “stone” as well. The MMO also recommend the wording of this condition is amended so that it is in line with other DCO DML conditions (e.g., Sizewell C) and that the loss should be reported ‘as soon as possible and in any even within 48 hours of becoming aware’. Although the MMO recommend 24 hours is a more appropriate timeframe.
- 2.1.26 Part 3 (24) - The MMO considers that the undertaker should use ‘reasonable endeavours’ to locate the material and recover it. The MMO suggest the following wording is used:
- If the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material), the MMO must notify the undertaker and the undertaker must use reasonable endeavours to locate the material and recover it. In that event, the undertaker must demonstrate to the MMO that reasonable attempts have been made to locate, remove or move any such material.*
- 2.1.27 Part 3 (25) – The MMO suggest the abbreviation of “MIDIRI” is not required if not used elsewhere in the DML and can be removed.



2.1.28 Part 3 (25) – The MMO would like to see the following wording included, which has been used in recent DCO’s such as Sizewell C:

*“(1) The undertaker must report all dropped objects to the MMO using the dropped object procedure form as soon as reasonably practicable and in any event within 24 hours of becoming aware of an incident. (2) On receipt of the Dropped Object Procedure Form, the MMO may require, acting reasonably, the undertaker to carry out relevant surveys. The undertaker must carry out surveys in accordance with the MMO’s reasonable requirements and must report the results of such surveys to the MMO.*

*(3) On receipt of such survey results, the MMO may, acting reasonably, require the undertaker to remove specific obstructions from the seabed. The undertaker must carry out removals of specific obstructions from the seabed in accordance with the MMO’s reasonable requirements and at its own expense.”*

2.1.29 Part 3 (26), 27) & (28) – The MMO note that there is currently no definition for “works” and suggest the Applicant considers replacing with “licensed activities’.

2.1.30 Part 3 (28) – The MMO recommend the wording as amended from “Local Marine Office” to “Local Enforcement Office” in accordance with 1(4)(b).

2.1.31 Part 3 (29)(2) – The MMO note that the deemed approval provision is still within the DML. The MMO would like to reiterate our advice as provided in our Relevant Representation RR-006:

“With regard to Schedule 13, Part 3 ‘Conditions Discharge’ 29 (1) & (2) – The MMO disagrees with point (2) and the limit of determining an application for the discharge of a condition. While the MMO consider 3 months to be a reasonable period for determination, any restriction as set out in (2) hinders the ability of the MMO to carry out its regulatory responsibility. It is the position of the MMO that the MMO must not be subject to deemed approvals. This would lead to a disparity between licence issued under DMLs and those issued directly by the MMO and create an unlevel playing field across the regulated community.”

The MMO welcome discussion with the Applicant if they wish to discuss the MMO’s response.

Yours faithfully

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