

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

FIVE ESTUARIES OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER

PINS REFERENCE EN010115

**DEADLINE 7: PORT OF LONDON
AUTHORITY'S RESPONSE TO EXAMINING
AUTHORITY'S WRITTEN QUESTIONS AND
RESPONSE FOR INFORMATION ISSUED
ON 3 FEBRUARY 2025**



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Set out below are the Port of London Authority's comments on the Examining Authority's third Written Questions and requests for Further Information issued on 3 February 2025 directed at the Port of London Authority.

Development Consent Order (DCO)	Question to:	Question:	Port of London Authority Response:
DCO.3.09	Affinity Water Limited, Cadent Gas Limited, Environment Agency, Essex County Council, London Gateway Port Limited, National Highways, Network Rail, North Falls Offshore Wind Farm Limited and Port of London Authority	<p>Protective Provisions</p> <p>With respect to negotiating Protective Provisions, advise on what the current position is with respect to agreeing a set of Protective provisions in your favour with the Applicant. Where there is disagreement with the Applicant explain why this is the case and where any disagreement relates to matters of detailed drafting submit the version of your preferred text.</p>	<p>The PLA, London Gateway Port Limited and the Applicant met on the 5 and 24 February 2025 to discuss offshore protective provisions for the benefit of the PLA. Unfortunately, it was not possible to reach agreement in full on the protective provisions but the parties were able to make significant progress in narrowing the scope of the areas of disagreement. The PLA have attached their preferred protective provisions at appendix 1.</p> <p>The areas of disagreement relate to:</p> <p>Approvals</p> <p>(1) Approval of the Cable Specification and Installation Plan ("CSIP"), Navigation and Installation Plan ("NiP") and Operations and Maintenance Plan ("O&MP")</p> <ul style="list-style-type: none"> - The Applicant's preferred drafting would see the Applicant <u>consult</u> the PLA on the CSIP and NiP in so far as the CSIP and NiP relates to any specified work within the Area of Interest. The PLA's preferred wording would see the PLA <u>approve</u> the CSIP and NiP in relation to any specified work within or which may affect the Area of Interest before they are submitted to the MMO for approval for the reasons explained below (Paragraph 3(1)(a) and (b)). - Any approvals or consultation referenced in paragraph 3 must be in connection with any specified work not only <u>within the Area of Interest</u> (i.e the areas shown shaded in yellow on the Deep Water Routes Cable Installation Areas (Future Dredging Areas) plan, encompassing the cable corridor crossings of the Deep Water Routes ("DWRs") but also any specified work that <u>may affect the Area of Interest</u>. Adjoining works could also impact the Areas of Interest depending on the nature of those works. - The PLA acknowledges that it has since deadline 6 added in a requirement to approve the O&MP (paragraph 3(c)). This is as a result of the comments of London Gateway Port Limited at deadline 6 (REP6-080) which highlighted that maintenance of the

			<p>authorised development also falls within the scope of the O&MP and that maintenance works that are covered by that plan include cable remedial burial; cable repairs and replacement and cable protection replenishment. The PLA must have certainty that whatever plan the applicant is working to that the necessary requirements in relation to the DWRs are being met.</p> <ul style="list-style-type: none"> - Given the potential for significant impact on the Port of London which is the largest Port in the Country; the extensive comments that the PLA have made on the oCSIP and oNiP throughout the examination and the changes that been made to these documents as a result of the PLA's input, it is clear that the PLA has an important role in ensuring that CSIP, NIP and O&MP are fit for their intended purpose. - Outline documents have been submitted to the examination and whilst the PLA has no objection to this, given the important matters that the CSIP, NIP and O&MP will deal with, however, it is concerning that as currently drafted the Deemed Marine Licence – Transmission Assets (Schedule 11) of the dDCO [REP6-055] ("DML") only requires the CSIP to accord with the principles of the oCSIP and the NiP to accord with the principles of the NIP (Condition 13(1)(g) and (j) of the DML). There is the potential therefore for the final documents to change and for those changes to detrimentally impact the Port of London either temporarily or permanently. It is of note that the O&MP has to be substantially in accordance with the outline offshore operations and maintenance plan (Condition 4(4) of the DML). We would invite the ExA to include a similar requirement in respect of the CSIP and the NIP within the DML. - London Gateway have approval of the CSIP incorporated into their protective provisions in the latest dDCO. The Applicant suggests that the PLA should be treated differently as the Order Limits are outside of the PLA's jurisdictional limits. As explained in the submission of the PLA to Action Point 7 of ISH7 [REP6-061] the Order Limits include the northern approaches for deeper draughted vessels into the Port of London (i.e the DWRs through which deeper draughted vessels must pass through to get into the Port of London); whilst outside the jurisdiction of the Port of London Act 1968, the DWRs form part of the seaward approaches within which the PLA have to discharge its general and specific statutory duties. The Order Limits also include the Sunk Pilot Diamond. Pilotage is compulsory for large vessels within the London Pilotage District. The approaches and boarding and landing of pilots takes place in the general vicinity of the Sunk Pilot Diamond rather than at a specific point. This is in addition to the onshore navigational equipment which is currently covered by the agreed onshore protective provisions. To suggest that the PLA have a lesser interest of concern or relevance to that of London Gateway due to the "jurisdictional limits" of
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			<p>the Port of London Act 1968 is disingenuous and open to challenge by way of judicial review were the Secretary of State to follow such an approach.</p> <ul style="list-style-type: none"> - The Applicant's approach to agreeing protective provisions seems to be to avoid multiple party approvals. It is not uncommon with DCO's for there to be more than one body that approves a document. In relation to the River Thames this reflects the complex consenting regime that exists. In relation to VE this would reflect the multiple parties that have a common goal to ensure the free passage to and from the various ports and to get the largest possible ships in and out of their respective ports. - The Applicant's approach to protective provisions also appears to be hampered by the fact that the MMO will require 6 months to approve documents submitted pursuant to the DML. The PLA is not asking for six months to approve the documents. Whilst approval (as with London Gateway) would be prior to their submission to the MMO, the PLA is content to provide its approval within a much shorter timeframe. - It is clear from the outline documents that they are live documents that will be updated during construction and operation of the proposed development. As such the PLA also seeks approval of revisions to the document as a result of submissions to the MMO. - Importantly the Applicant appears to have changed its position in relation to the CSIP with the deadline 6 version of the oCSIP [REP6-020] clearly stating that the PLA will approve the CSIP (see para 1.4.4 of the oCSIP which states (emphasis added): Insofar as it relates to the crossing of the Deep Water Route areas (DWRs) defined in Figure 2.1, the <u>CSIP will be submitted for approval by the Port of London Authority under the relevant protective provisions secured in the DCO</u>) <p>(2) Approval of detailed design of the cables</p> <ul style="list-style-type: none"> - It is the PLA's understanding that the Applicant is concerned about the PLA approving the design of the cable installation due to issues of timing and the potential for the PLA to comment on matters which it does not have technical expertise in (such as the method for installing the cable). The Applicant wishes to place reliance on the CSIP to provide the 'relevant information' in relation to cable installation. - The PLA suggested alternative wording to the applicant which was in the Silvertown Tunnel DCO and is also in the draft DCO for Lower Thames Crossing. With tunnels, the PLA does not approve the tunnel design but instead is provided with relevant information and is able to request further information or clarification in order to be
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			<p>comfortable that all relevant issues have been considered. The PLA provided to the Applicant details of the types of information that it has in the past requested which it is understood from the meeting the Applicant (VE) considered was reasonable. The PLA has also discussed with the Applicant it being clear in the relevant condition the scope of the PLA's comments so that as an example it could not request a different installation technique from that which was being proposed if it was being demonstrated that the technique proposed was capable of achieving the required installation depths.</p> <ul style="list-style-type: none"> - In the alternative, the PLA has also suggested that it could agree to remove the requirement for approval of detailed design if the Applicant provided the PLA with approval of the CSIP as that would give the PLA a degree of surety that the detailed design was being progressed in such a way that it was likely that cable burial depths would be met. Whilst there is an agreed remediation clause clearly it is better for everyone if the cable is designed to achieve the required cable burial depths rather than remedial action needing to be taken. Being able to raise issues to the Applicant's attention (in the same way that the PLA does for tunnels or through the CSIP) would appear to only be of benefit to the project. - If the PLA is not to have approval of the CSIP then the PLA would request that the DCO includes the following text within the PLA's Protective Provisions: <p>" Approval of Detailed Design</p> <p>[4] (1) The undertaker must, in a timely manner, consult with the PLA when:</p> <ul style="list-style-type: none"> (a) preparing the detailed design and construction methodology in relation to any specified work within or which may affect the Area of Interest ; and (b) during construction of any specified work within or which may affect the Area of Interest, on such matters regarding those works as the PLA may reasonably request. <p>(2) The undertaker must have reasonable regard to any representations made by the PLA under sub-paragraph (1) and provide a written account of how any such representations have been taken into account.</p> <p>(3) Where the PLA are not reasonably satisfied in relation to the written account provided in relation to the matters under paragraph (1), the senior representatives from the PLA and the undertaker must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days, and if the PLA is not reasonably satisfied following that meeting it may within 20 business days of the</p>
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			<p>specified day, notify the undertaker that the PLA is in dispute with the undertaker and accordingly refer the matter to arbitration under article [48] (arbitration).</p> <p>(4) In the event that a matter is referred to arbitration under sub-paragraph (3), the undertaker must not begin any specified work to which a dispute under sub-paragraph (3) relates until such arbitration is settled by the arbitrator).</p> <p>(5) The undertaker must, no later than three months prior to the expected commencement of any specified work within or which may affect the Area of Interest, provide the PLA with a point of contact for continuing liaison and co-ordination throughout the construction of the relevant specified works and the undertaker must notify the PLA of the date of—</p> <p>(a) the relevant specified works beginning as soon as reasonably practicable and, in any event, 28 days prior to beginning of those works;</p> <p>(b) the completion of the specified works as soon as reasonably practicable after the completion of those works;</p> <p>(6) In this paragraph, “construction methodology” includes construction methods and measures for management of construction risks.”</p> <p>Surveys</p> <ul style="list-style-type: none"> - The Applicant has agreed to consult the PLA on the proposed activities and programme for survey authorised by the Order. Not all surveys are necessarily authorised by the Order and some will be authorised pursuant to Deemed Marine Licences. The PLA would wish to be consulted on the proposed activities and programme for any <u>preconstruction monitoring surveys, construction monitoring, post construction monitoring and related reporting</u>. This wording is used in condition 13(1)(e) of the DML (paragraph 3(2) and (3)). <p>Unexploded Ordinance</p> <ul style="list-style-type: none"> - The Applicant has agreed to consult the PLA on any application for marine licensing for the disposal of unexploded ordinance within the Area of Interest. As noted above this should also relate to unexploded ordinance that may affect the Area of Interest.
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			<p>The PLA would also wish for "disposal" to refer to "clearance" as we are dealing with clearance (see paragraph 3(2) and (3)).</p> <p>CSIP</p> <ul style="list-style-type: none"> - It should be clear that the CSIP is to be informed by a cable burial risk assessment. - We understand that the Applicant agrees that the wording in new Requirement 2(3) should be referenced in the CSIP (paragraph 4(a)). The wording should require that the cables are not only installed so as not to impede the referenced dredging depths but must also be <u>placed, maintained, operated and decommissioned</u> to adhere to the referenced dredging depths. The required depths also need to make allowance for an 'over-dredge' tolerance of 0.5 metres in addition to the stated depths attributable to standard dredging methodology (paragraph 4(a)). - The CSIP should include the programme and methodologies for monitoring and the arrangements for the results of surveys or other construction evidence being made available to the PLA within 10 business days of the undertaker receiving reports of the survey results or evidence to demonstrate compliance with the depths referred to in paragraph 4(a) (as per paragraph 4(f)). Separately the methods and timescales to rectify any issues should be addressed in the CSIP (see paragraph 4(g)). <p>Remediation</p> <ul style="list-style-type: none"> - The PLA understand that paragraph 7 regrading remediation is agreed in principle. The disagreement is that the drafting needs to link back to paragraph 4(a) and Requirement 2(3) and not the under keel clearance specified in the Outline CSIP to ensure the Requirement is being met throughout this paragraph. <p>Indemnity</p> <ul style="list-style-type: none"> - The PLA would wish to have the same indemnity that has been in the protective provisions for the PLA for Thames Tideway Tunnel, Silvertown Tunnel, the draft Lower Thames Crossing (TR010032), the draft Cory Decarbonisation Project (EN010128). - The Applicant disagrees and is therefore proposing to provide the PLA with no indemnity at all.
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			<ul style="list-style-type: none"> - The PLA would note that the Applicant's position on indemnity is at odds with other DCO's that the PLA has been involved in (see bullet (1) above) and with other VE interested parties – the PLA notes that the Applicant has struck through at Deadline 6 the Environment Agency's indemnity. - It cannot be right that the Port of London Authority has to absorb the costs, charges, damages, losses or expenses that it incurs as a result of the Applicant's scheme. The PLA has statutory functions and is subject to health and safety legislation as well as environmental related legislation and has certain duties under the Harbours Act 1964. Should the Applicant undertake the development in a manner which puts the PLA in breach of such legislation or causes a situation which results in the pollution of controlled waters due to a vessel being damaged as a consequence of the Applicant's scheme and insufficient under keel depths, the Applicant should be required to meet the cost not the PLA. - The Applicant has indicated that it is not prepared to be responsible for third party losses. To the extent that such losses are foreseeable then the Applicant should be liable. The PLA note that the Protective Provisions for Network Rail include an indemnity clause almost identical to that which the PLA is seeking save that it includes a further clause regarding third party consequential or indirect loss. - The PLA would expect the Applicant to meet any costs or claims to which the PLA is required to meet as a consequence of the Applicant's scheme. The PLA would, however, be agreeable to adopting a similar clause to exclude third party consequential or indirect loss which is not reasonably foreseeable. - Finally, the PLA would draw the Examining Authorities attention to the burial hierarchy as shown in Figure 4.1 of the in the Margate and Long Sands SAC Benthic Mitigation Plan (REP5-028) and in particular the caveat. This emphasises the need for the PLA to have an appropriate indemnity clause as reburial may not be technically feasible.
DCO.3.14	Applicant, MMO, Maritime and Coastguard Agency, HHA, London Gateway Port Limited and Port of London	Condition 4 (Maintenance of the authorised development) of Schedule 11 (Deemed marine licence – Transmission Assets) Further to the ExA's request for further	The Applicant proposed the following amendment at Deadline 6 (change shown underlined): <i>" In undertaking activities under condition 4(2)(f), <u>other than within the areas shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent</u>, the undertaker must not reduce water depth by more than 5% referenced to Chart Datum unless agreed with the MMO in writing following consultation with the MCA."</i>

	Authority	<p>information sought in [PD-024] and in the event of a minimum dredging depth parameter for the Deep Water Routes (DWRs) being incorporated into any made DCO, comment on any changes for the drafting of Condition 4 of Schedule 11, most particularly in respect of subsection (3), that might be necessary to ensure there would be no inconsistency between the water depths required in the DWRs and the parts of the authorised development that would be outside the DWRs.</p>	<p>The PLA has no issue with this wording but would suggest that there are also other instances in the dML where the 5% is referenced that would also require the same amendment namely paragraph 13(g)(ii).</p>
DCO.3.16	MMO	<p>Consultation with the Port of London Authority when discharging conditions of the DML for the Transmission Assets (Schedule 11)</p> <p>The Port of London Authority has submitted (including during the course of Issue Specific Hearing 7 held on 23 January 2025) that it wishes to be a consultee of the MMO when relevant conditions of the DML for the Transmission Assets were being discharged. Would the MMO be</p>	<p>Whilst this Question is directed towards the MMO, it may also assist the Examining Authority if the PLA responds to this question.</p> <p>The MMO and the PLA have met twice to discuss the dML for the transmission assets (Schedule 11) and the PLA have provided the MMO with a marked up copy of Schedule 11 setting out when the PLA would wish to be a consultee of the MMO. This marked up copy is also attached at appendix 2 showing the PLA's changes in red. The PLA understands that the MMO has no objection in principle to the PLA being a consultee when relevant conditions are being discharged and the changes proposed.</p> <p>Other minor amendments have been made to the Schedule 11 dML including a definition of the "area of interest" and "the deep water routes cable installation areas (future dredging areas) plan; the requirements in relation to dredging of the Sunk and Trinity DWR's and; the contents of the CSIP and the PLA would ask that these changes are also incorporated into Schedule 11.</p> <p>The PLA understands that the MMO has no objection to the changes proposed.</p>

		agreeable to the Port of London being a consultee when relevant conditions in Schedule 11 were 11 were being discharged? If the MMO is not be agreeable to that, explain why that is the case	
DCO.3.17	PLA	<p>Approval of the Navigation and Installation Plan (NIP) as part of the DMLs</p> <p>In paragraph 2.5 of [REP3-035] you have provided examples of made DCOs for projects on the river Thames where Protective Provisions in favour of the Port of London have been included enabling you, as well as the MMO via DMLs included in those made DCOs, to approve NIPs.</p> <p>a) Is the PLA's relationship with the made DCOs for projects on the river Thames directly comparable with those for the Proposed Development, given: (1) for the river Thames the PLA is the Statutory Harbour Authority (SHA) and the Order Limits for the made DCOs on the river Thames are wholly within</p>	<p>Naturally the majority of DCO's that the PLA have been involved in relate to projects located within the Port of London Act 1968 limits.</p> <p>There are also naturally a limited number of exceptions to this, for example, the PLA participated in the Thanet Offshore Windfarm Extension Development Consent Order which was outside the PLA's statutory limits. As the PLA had fundamental concerns about the extension (which ultimately led to the refusal of the application) no discussions took place regarding protective provisions for the PLA.</p> <p>The PLA acknowledges that there is a significant amount of infrastructure near to the proposed site of VE. This is perhaps best evidenced in the Other Offshore Infrastructure chapter of the ES. However as can be seen from Figure 12.3 VE is the first project to come forward under a Development Consent Order that impacts on the DWR's into the Port of London. The decision made in relation to protective provisions for VE could therefore have implications for future schemes including North Falls, SeaLink which are being brought forward through DCO's.</p> <p>Other projects shown on figure 12.3 have been brought forward outside of the DCO process (e.g Neuconnect).</p> <p>The PLA would emphasise the importance of the Port of London and that it is only through protective provisions that the PLA will have certainty that the design and installation of the cables in the ECC will not have a detrimental long term impact on the UK's largest port. As noted above, the PLA has navigational equipment within the Order limits and the seaward approaches for the Port of London are also situated with the Order Limits. The seaward approaches are of relevance to the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations - section 2.3.1 stating that "<i>the Organisation Harbour Authority will discharge its general and specific statutory duties in respect of the conservancy of the harbour and its seaward approaches</i>".</p>

		<p>the SHA's area of jurisdiction; and (2) the PLA's jurisdiction does not include the Order Limits for the Proposed Development? b) Submit any made DCOs for projects with Order Limits beyond the PLA's area of jurisdiction that have included mechanisms for the PLA to issue approvals.</p>	<p>Moreover, DCOs are just one type of Order which typically include protective provisions. Other orders include Transport and Works Act Orders, Harbour Orders and Hybrid Bills. As previously noted to the ExA at ISH7 the London Gateway Harbour Empowerment Order includes protective provisions for the benefit of the PLA notwithstanding that the Port is outside of the Port of London Act jurisdictional limits.</p> <p>Responding to the specific questions: Whether the PLA's relationship with the made DCOs for projects on the river Thames are directly comparable with those for the Proposed Development, given:</p> <ol style="list-style-type: none"> (1) for the river Thames the PLA is the Statutory Harbour Authority (SHA) and the Order Limits for the made DCOs on the river Thames are wholly within the SHA's area of jurisdiction; an (2) the PLA's jurisdiction does not include the Order Limits for the Proposed Development? <p>As noted above to suggest that the PLA should be treated differently because the Order Limits are outside of the Port of London Act jurisdictional limits fails to have regard to:</p> <ul style="list-style-type: none"> • The Order Limits include the DWRs through which deeper draughted vessels must pass through to get into the Port of London; whilst outside the jurisdiction of the Port of London Act 1968 the DWRs form part of the seaward approaches within which the PLA have to discharge its general and specific statutory duties as noted by the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations. • The Order Limits also include the Sunk Pilot Diamond. Pilotage is compulsory for large vessels within the London Pilotage District and the PLA is responsible for the piloting of vessels entering the Port of London, utilising the Sunk Pilot Diamond to discharge this function. • In addition, the PLA is responsible for the onshore navigational equipment located within the Order Limits and which is currently covered by the agreed onshore protective provisions. <p>In relation to limb b) we have explained why such DCO's do not exist but would emphasise that the application for the Thanet Offshore Windfarm Extension Development Consent Order failed because of the potential impact on surrounding Ports including the Port of London and the fact that DCOs are not the only orders including protective provisions and the London Gateway Harbour Empowerment Order governing the London Gateway Port includes protective provisions for the benefit of the PLA notwithstanding that the Port of London's jurisdictional limits do not extend into the area of this order.</p>
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APPENDIX 1

PROTECTIVE PROVISIONS

PART 9B

For the protection of the Port of London Authority (offshore)

1. In this Part

“Area of Interest” means the areas shown shaded in yellow on the Deep Water Routes Cable Installation Areas (Future Dredging Areas) plan, encompassing the cable corridor crossings of the Deep Water Routes;

“cable specification and installation plan” means the cable specification and installation plan to be approved under condition [13(1)(g)] of the deemed marine licence for the transmission assets in Schedule [11];

“construction” includes execution, placing, altering, replacing, relaying, removal, renewal works of maintenance and decommissioning, in its application to a specified work which includes or comprises any operation, means the carrying out of that operation, and “construct” and “constructed” are to be construed accordingly;

"commencement" for the purpose of this Part [] of Schedule[9] means the carrying out of any authorised development and monitoring activities;

“Deep Water Routes” mean the Sunk and Trinity deep water routes;

"installation" has the same meaning as construction and ‘installed’ is to be construed accordingly

"operation and maintenance plan" means the operation and maintenance plan to be approved under condition 4 of the deemed marine licence for the transmission assets in Schedule [11];

"maintain" has the same meaning as in Article 2 save that it includes monitoring within the Area of Influence and maintenance shall be construed accordingly;

"navigation and installation plan" means the navigation and installation plan to be approved under condition 13(1)(j) of the deemed marine licence for the transmission assets in Schedule [11];

“specified work” means Work No, 2(c), and any other part of the offshore works forming part of the authorised development including associated development and ancillary works (and which for this purpose includes the maintenance and decommissioning of any part of the authorised development); and

“PLA” means the Port of London Authority.

Application

2. The following provisions, unless otherwise agreed in writing between the undertaker and the PLA, have effect, for the protection of the PLA in relation to the construction, operation and maintenance of any specified work.

Consultation and notice

3.(1) The undertaker will, prior to commencement of Work no 2(c), obtain the approval in writing of the PLA on:

- (a) the cable specification and installation plan (in so far as that plan relates to any specified work within or which may affect the Area of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition [13] of the deemed marine licence for the transmission assets in Schedule [11] and any revisions arising from such application; and
- (b) a navigation and installation plan (in so far as that plan relates to any specified work within or which may affect the Area of Interest) before any application for approval of that plan may be submitted

by the undertaker in compliance with condition [13] of the deemed marine licence for the transmission assets in Schedule [11] and any revisions arising from such application;[and]

- (c) the operation and maintenance plan (in so far as that plan relates to any specified work within or which may affect the Area of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition [4] of the deemed marine licence for the transmission assets in Schedule [11] and any revisions arising from such application

(2) The undertaker will consult the PLA on the proposed activities and programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring and related reporting within the Area of Interest no less than 20 business days before such survey work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed activities or programme, which request must be made to the undertaker within 5 business days of receipt of the details of the proposed activities and programme.

(3) The undertaker must notify the PLA of the final planned programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring within the Area of Interest no less than 5 business days before such survey work is programmed to begin.

(4) The undertaker will consult the PLA on any application for marine licensing for the clearance of unexploded ordnance within or which may affect the Area of Interest before such applications are submitted to the MMO. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed application, which request must be made to the undertaker within 10 business days of receipt of the details of the proposed application.

(5) The undertaker must notify the PLA of the final programme for any clearance of unexploded ordnance to be undertaken within the Area of Interest no less than 20 business days before such disposal is programmed to begin.

(6) The undertaker will consult the PLA on the activities and programme for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within or may affect the Area of Interest no less than 20 business days before such specified work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the activities or programme.

(7) The undertaker must notify the PLA of the final method statement and programme for any for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within or may affect the Area of Interest no less than 5 business days before such work is programmed to begin.

Cable Specification and Installation Plan

4. The cable specification and installation plan referred to in paragraph [3] must be informed by a cable burial risk assessment and set out for Work No.2(c), and in so far as it applies to the Deep Water Routes:

- (a) [That any part of Work No.2(c), any associated development or ancillary works located within the Sunk and Trinity Deep Water Routes, as shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan must be installed or placed and thereafter maintained, operated and decommissioned to a level which would not impede the dredging of those parts of the Sunk and Trinity Deep Water Routes:
 - (i) shown shaded in yellow and outlined in a bold black line (and labelled Sunk Area A (22m CD)) to a level of 22 metres below Chart Datum;
 - (ii) shown shaded in yellow and outlined in a blue dotted line (and labelled Trinity (22m CD)) to a level of 22 metres below Chart Datum; and
 - (iii) shown shaded in yellow and cross hatched in orange (and labelled Sunk Area B (19m CD)) to a level of 19 metres below Chart Datum.];
 - (iv) and in all cases (i) to (iii) makes allowance for an ‘over-dredge’ tolerance of 0.5 metres in addition to the stated depths attributable to standard dredging methodology.
- (b) The proposed cable installation methods and measures for management of construction risks;
- (c) Additional cable burial depths required or any other forms of cable protection proposed including type, volume and locations;

- (d) During construction of the cables and cable protection in the Area of Interest arrangements for the consultation of the PLA in a timely manner, on such matters regarding those works as the PLA may reasonably request including arrangements for providing the PLA with a point of contact for continuing liaison and co-ordination throughout the construction of these works.
- (e) The proposed programme of work for cable installation and arrangements for notification of any changes to the programme to the PLA;
- (f) The programme and methodologies for monitoring and the arrangements for the results of these surveys or other construction evidence being made available to the PLA within 10 business days of the undertaker receiving reports of the survey results or evidence to demonstrate compliance with the depths referred to in sub paragraph a) of this paragraph
- (g) Methods and timescales to rectify any issues which may compromise the depth referred to in sub paragraph a) of this paragraph 4.
- (h) A requirement for a process (subject to paragraphs 8 and 9) and timescales (both the undertaker and PLA acting reasonably) for cable re-installation should the level that the cable is such that the under keel clearance specified in Outline CSIP cannot be achieved over the lifetime of the authorised development.

Monitoring

5. If following the results of any geophysical surveys carried out using multi-beam echo sounder survey (MBES), it is confirmed that cable exposure or reduction in navigable depth has occurred within the Area of Interest, the undertaker will notify the PLA as soon as reasonably practicable and in any event no later than [2 business days after the undertaker confirms any exposure has occurred].

6. The PLA must notify the undertaker of any potential cable exposure that is identified by the PLA in the relation to the Area of Interest as soon as reasonably practicable.

Remediation

7. Where, following the installation of cables forming Work No. 2(c) in relation to the Area of Interest it is identified by the undertaker (who shall notify the PLA as soon as reasonably practicable of this fact and in any event within [] days) or, following inspection by the PLA, it is identified by the PLA (and the same is notified to the undertaker as soon as reasonably practicable), that the level of cable is such that the requirements of paragraph 4(a) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of paragraph 4(a) are no longer being achieved, then, unless otherwise agreed in writing with the PLA, the undertaker is required to carry out remediation works as specified in the cable specification and installation plan subject to paragraph (8) in relation to the Deep Water Routes.

8. Unless otherwise agreed in writing with the PLA, the undertaker will carry out the following arrangements for the carrying out the remediation works:

(1) the undertaker will re-bury the cables to the required specification to achieve the requirements of paragraph 4(a); and

(2) Following the completion of the works in sub-paragraph (1), if it is identified by the undertaker or the PLA (following inspection) that the required specification is not achieved, then the undertaker will remove the cable without unreasonable delay and thereafter relay a new cable pursuant to an updated cable specification and installation plan, which updated cable specification and installation plan specifically identifies and addresses why the previous cable burial was not successful, how that has been addressed and what measures are to be used in relaying the cable to prevent the failure reoccurring.

(3) The updated cable specification and installation plan required under sub-paragraph (2) will be submitted to the PLA for approval under paragraph 3, and the provisions of both this paragraph and paragraph 4 will apply to that updated cable specification and installation plan.

(4) The steps in this paragraph shall be repeated until the requirement in paragraph 4(a) is achieved or the cable is permanently removed from the Area of Interest.

Provision of as built details

9. As soon as reasonably practicable following the completion of the installation of cables forming Work No. 2(c) and after any maintenance of the same, the undertaker must provide (on a strictly confidential basis) to the PLA as built drawings of Work No. 2(c) in a form and scale to be agreed between the undertaker and the PLA to show the position, depth and any cable protection installed as part of Work No 2(c) in relation to the Deep Water Routes provided that the PLA must not disclose (without the written consent of the undertaker) any information that has been provided by the undertaker to the PLA on a confidential basis or which is marked as commercially sensitive and must hold such information on a confidential basis only, except that the PLA may provide the information to contractors and agents acting on its behalf (including but not limited to contractors engaged to carry out dredging operations) provided that such agents and contractors are required by the PLA to treat such information as confidential.

Indemnity

10. The undertaker will pay to the PLA its proper and reasonable legal costs, professional fees and disbursements incurred in connection with reviewing the details submitted to the PLA pursuant to this Part 9B of Schedule 9 and Part 9A of Schedule 9.

(2) The undertaker is responsible for and must make good to the PLA all financial costs, charges, damages losses or expenses which may be incurred reasonably or suffered by the PLA by reason of—

(a) the construction or operation of Work no 2(c), any specified work or its failure or a failure to adhere to the requirements of this Part 9B of Schedule 9 or Part 9A of Schedule 9;

(b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged on the construction or operation of a specified work or Work no 2(c) or with any failure, and the undertaker must indemnify the PLA from and against all claims and demands arising out of or in connection with a specified work, Work no 2(c) or any such failure, act or omission or any failure to adhere to the requirements of the this Part 9B of Schedule 9 or Part 9A of Schedule 9.

(3) The fact that any act or thing may have been done—

(a) by the PLA on behalf of the undertaker; or

(b) by the undertaker, its employees, contractors or agents in accordance with plans or particulars submitted to or modifications or conditions specified by the PLA, or in a manner approved by the PLA, or under its supervision or the supervision of its duly authorised representative, does not (if it was done or required without negligence on the part of the PLA or its duly authorised representative, employee, contractor or agent) excuse the undertaker from liability under the provisions of this paragraph.

(4) The PLA must give the undertaker reasonable notice of any such claim or demand as is referred to in sub-paragraphs (1) and (2) and no settlement or compromise of it is to be made without the prior consent of the undertaker.

Transfer of the benefit

11 The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 7 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 7, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.

Disputes

12 Any dispute arising between the undertaker and the PLA under this Schedule is to be escalated in the first instance to senior representatives from the PLA and the undertaker, and the PLA and undertaker must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days, Where following escalation the dispute is not resolved, it is to be determined by arbitration as provided in article [48] (arbitration) of this Order.

APPENDIX 2

DEEMED MARINE LICENCE CHANGES

SCHEDULE 11

Article 5

Deemed marine licence – Transmission Assets

PART 1

Licensed Marine Activities

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004**(a)**;

“the 2008 Act” means the Planning Act 2008**(b)**;

“the 2009 Act” means the Marine and Coastal Access Act 2009**(c)**;

“2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017**(d)**;

“aids to navigation management plan” means the aids to navigation and management plan to be submitted to the MMO under the conditions of this licence;

“Area of Interest” means the areas shown shaded in yellow on the Deep Water Routes Cable Installation Areas (Future Dredging Areas) plan, encompassing the cable corridor crossings of the Deep Water Routes

“array area” means the area covered by Work No. 1 as shown on the offshore works plan;

“array area disposal site” means the site to be used for disposal of inert material of natural origin produced during construction, drilling and seabed preparation for works associated with foundations, cables or installation vessels (including sandwave clearance) to be located within the array area;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this marine licence;

“authorised development” means Work Nos. 2, 2A and 3 described in paragraph 3 of Part 1 of this marine licence or any stage of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

“cable” means cables for the transmission of electricity and includes fibre optic and other communications cables either within the cable or laid alongside;

“cable crossings” means a crossing of existing sub-sea cables or pipelines or other existing infrastructure by a cable or, where cables run together in parallel, a set of cables, authorised by this Order together with cable protection;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses, bagged solutions, and/or rock placement (including material used for cable crossings);

“cable protection replenishment” means the restoration to a former level or condition of cable protection lost by natural seabed processes or human activity;

(a) 2004 c. 20

(b) 2008 c. 29

(c) 2009 c. 23.

(d) S.I. 2017/13

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction surveys and monitoring approved under this marine licence and the activities set out in paragraph 2 of part 1 of this licence, and “commenced” and “commencement” must be construed accordingly;

“commissioning” means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation and any successor body to its functions;

“Defra” means the Department for Environment, Food and Rural Affairs;

“dropped object procedure form” means the MMO notification proforma with reference MLDIR1 for reporting the loss or dumping of synthetic materials and other refuse at sea or any other format advised in writing by the MMO;

“emergency response co-operation plan” means the plan approved by the MCA the arrangements for liaison between the undertaker and HM Coastguard in the event of an emergency response;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 Part 4 (marine licensing) of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 44 (certification of plans etc.);

“habitats of principal importance” means a habitat designated as being of principal importance in accordance with section 41 (biodiversity lists and action (England)) of the Natural Environment and Rural Communities Act 2006(a);

“IHO S44ed5 Order 1a” means order 1a from the fifth edition of the International Hydrographic Organisation’s Standards for Hydrographics Surveys;

“inter-array cable” means the network of offshore subsea cables connecting the wind turbine generators in Work No. 1 of and licenced under the deemed marine licence in Schedule 10 of the Order, and the offshore substations forming part of Work No. 2;

“jacket foundation” means a lattice type structure constructed of steel, which may include additional equipment such as, J-tubes, corrosion protection systems and access platforms;

“JNCC” means the Joint Nature Conservation Committee;

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded;

“Kingfisher bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“Kingfisher Information Service” means the information service from non-departmental government body Seafish;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

(a) 2006 c. 16

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection) to the extent assessed in the environmental statement, and “maintenance” must be construed accordingly;

“Margate and Long Sands special area of conservation benthic mitigation plan” means the document forming an appendix to the outline cable specification and installation plan;

“Marine Management Organisation” or “MMO” means the Marine Management Organisation, the body created under the 2009 Act and who is responsible for the monitoring and enforcement of this licence;

“marine noise registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;

“MCA” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

“MHW” or “mean high water” means the highest level which spring tides reach on average over a period of time;

“MHWS” or “mean high water springs” means the boundary of the landward jurisdiction of the 2009 act;

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including J-tubes, corrosion protection systems and access platforms and equipment;

“offshore in principle monitoring plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 43 (certification of plans etc.);

“the offshore Order limits and co-ordinates plan” means the plan certified as such by the Secretary of State for the purposes of the Order under article 44 (certification of plans etc.);

“offshore project design principles document” means the document certified as such by the Secretary of State for the purposes of the Order under article 44 (certification of plans etc.);

“Offshore Renewables Protocol for Reporting Archaeological Discoveries” means the Offshore Renewables Protocol for Reporting Archaeological Discoveries, the Crown Estate (2014), Protocol for Archaeological Discoveries: Offshore Renewables Projects, Salisbury, Wessex Archaeology as amended, updated or superseded from time to time;

“offshore substation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) storage, workshop auxiliary equipment, radar and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“operation” means the undertaking of the licensed activities which are not part of the construction, commissioning or decommissioning of the authorised development;

“Order” means the Five Estuaries Offshore Wind Farm Order 202[];

“the Deep Water Routes Cable Installation Areas (Future Dredging Areas) plan” means the document certified such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);

“the Order limits” means the limits shown on the offshore Order limits plans and the onshore Order limits plan within which the authorised development may be carried out, the grid coordinates for the area of which seaward of MHWS are set out in Schedule 16;

Extract from Marine Licence

- “outline cable specification and installation plan” means the document certified such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);
- “outline fisheries liaison and co-existence plan” means the document certified such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);
- “outline marine mammal mitigation protocol” means the document certified as such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);
- “outline marine written scheme of investigation” means the document certified as such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);
- “outline navigation and installation plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);
- “outline operations and maintenance plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);
- “outline project environmental management plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);
- “outline working in proximity to wildlife plan” means the document forming an appendix to the outline project environmental management plan;
- “pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure jacket foundations;
- “pin piled jacket” means a jacket attached to the seabed using pin piles;
- “statutory historic body” means Historic England or its successor in function;
- “statutory nature conservation body” means the appropriate nature conservation body as defined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017 or its equivalent in the 2017 Regulations;
- “suction caisson (or bucket)” means a steel cylindrical structure attached to the legs of a jacket foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;
- “suction caisson jacket” means a jacket attached to the seabed using suction caissons (typically one per leg)
- “Trinity House” means the Corporation of Trinity House of Deptford Strond;
- “UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;
- “UK Standard Marking Schedule for Offshore Installations” means the Standard Marking Schedule for Offshore Installations published by the Department of Energy & Climate Change with reference DECC 04/11.
- “undertaker” means Five Estuaries Offshore Wind Farm Limited, incorporated under company number 12292474 and having its registered office at Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, United Kingdom, SN5 6PB;
- “vessel” means every description of vessel, however propelled or moved, and includes a non displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water; and
- “working day” means a day which is not a weekend, bank holiday or public holiday in England;
- “works plan (offshore)” means the document certified as such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);

Extract from Marine Licence

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time;
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Civil Aviation Authority

Aviation House
Beehive Ringroad
Crawley
West Sussex
RH6 0YR

(b) Historic England

East of England Regional Office
Brooklands
24 Brooklands Avenue
Cambridge
CB2 8BU

(c) Marine Management Organisation

Marine Licensing Team
Lancaster House Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH
Tel: 0300 123 1032;

(d) Marine Management Organisation (Local Office)

Miranda House
The Quay
Harwich
CO12 3HH

(e) Maritime and Coastguard Agency

Navigation Safety Branch
Bay 2/20, Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2433;

- (f) Ministry of Defence (as requested by Defence Infrastructure Organisation – Safeguarding)
 St George’s House
 153
 DIO Head Office
 DMS Whittington
 Lichfield
 Staffordshire
 WS14 9PY;
- (g) Natural England
 Guildbourne House
 Chatsworth Road
 Worthing
 BN11 1LD
 Tel: 0300 060 4911;
- (h) Trinity House
 Tower Hill
 London
 EC3N 4DH
 Tel: 020 7481 6900;
- (i) The United Kingdom Hydrographic Office
 Admiralty Way
 Taunton
 Somerset
 TA1 2DN
 Tel: 01823 337 900.
- (j) **Port of London Authority**
London River House
Royal Pier Road
Gravesend
Kent
DA12 2BG
Tel: 01474 562200

(5) 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, or where contact to the Local Office of the MMO is required, harwich@marinemanagement.org.uk.

(6) Unless otherwise advised in writing by the MMO, the Marine Case Management System (“MCMS”) must be used for all licence returns or applications to vary this licence. The MCMS address is: <https://marinelicensing.marinemanagement.org.uk/>.

Details of licensed marine activities

2. Subject to the licence conditions at Part 2, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and within—

- (i) the array area disposal site, when combined with the disposal authorised by the deemed marine licence granted under Schedule 10 of the Order, of up to 24,556,610 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation and excavation of horizontal directional drilling pits works within the parts of Work No. 2 that lie within the array area; and
- (ii) the cable corridor disposal site of up to 9,214,386 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation and excavation of horizontal directional drilling pits works within Work Nos. 2, 2A and 3;
- (b) the construction of works in or over the sea, and or on or under the seabed;
- (c) dredging for the purposes of seabed preparation for installation of foundations, preparation for construction vessels and/or electrical circuit works;
- (d) boulder clearance works by displacement ploughing or subsea grab technique or any other equivalent method;
- (e) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (f) removal of static fishing equipment;
- (g) wet storage; and
- (h) site preparation works.

3. Such activities described in paragraph 2 are authorised in relation to the construction, maintenance and operation of—

Work No. 2— Electrical export works comprising:

- (a) up to two offshore substation platforms each fixed to the seabed by a foundation;
- (b) up to two subsea cable circuits between the offshore platforms forming Work No.2(a) including cable crossings and cable protection; and
- (c) up to two subsea cable circuits between Work No. 2(a) and Work No. 3, cable protection and cable crossings.

Work No. 2A—Sheet piling works and creation of pits for trenchless installation techniques, including installation of up to two cable ducts, installation and use of temporary construction working areas, cable installation vessel anchoring and works to allow vessels to remain in place at low tide.

Work No. 3—Installation of up to two subsea cable circuits between Work No. 2 and Work No. 4, including up to two cable ducts, cable protection and cable crossings and further including;

- (a) sheet piling works including creation of pits for trenchless installation techniques, trenchless installation technique works including the creation of entrance and exit pits; and
- (b) installation and use of temporary construction working areas, cable installation vessel anchoring, works to allow vessels to remain in place at low tide and laydown area.

In connection with such Works Nos. 2, 2A and 3 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence, including—

- (a) scour protection around the foundations of the offshore electrical installations;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses;

- (c) the removal of material from the seabed required for the construction of Work Nos. 2, and 3;
- (d) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised development.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic, synthetic and rubber;
- (f) material extracted from the seabed within the offshore Order limits during construction drilling or seabed preparation for foundation works cable installation preparation works and excavation of horizontal directional drilling pits;
- (g) anchors and weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and
- (h) marine coatings, other chemicals and timber.

5. The grid coordinates for that part of the authorised development comprising Work Nos. 2, 2A and 3 are shown on the offshore Order limits and grid coordinates plan.

General provisions

6. This marine licence remains in force until the authorised development has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes) of the 2004 Act, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this marine licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 7 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to 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.

PART 2

Conditions

Design parameters

1. The dimensions of any offshore platform forming part of the authorised development (excluding stowed cranes, helidecks, masts and auxiliary structures) must not exceed—

- (a) 105 metres in height when measured from LAT;
- (b) 125 metres in length; and
- (c) 100 metres in width.

2.—(1) Offshore substation platform foundation structures forming part of the authorised scheme must be one of either monopile foundations or jacket foundations.

(2) No offshore substation platform with a piled foundation may -

- (a) employ more than 6 piles per foundation;
- (b) in the case of monopile foundations, exceed a monopile diameter of 15 metres; or
- (c) in the case of a two or more pile foundation, exceed a pile diameter of 4 metres per pile.

3.—(1) The total length of the cables in Work Nos. 2, 2A and 3, and the volume of their cable protection (including cable crossings) must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
Work Nos 2, 2A and 3	196 kilometres	321,600 square metres 187,600 cubic metres

(2) Within 1600 metres seawards of MHWS, cable protection measures and cable protection remediation carried out as part of the must not include any use of loose rock or gravel.

(3) That any part of Work No.2(c), any associated development or ancillary works located within the Sunk and Trinity Deep Water Routes, as shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan must be installed or placed and thereafter maintained, operated and decommissioned to a level which would not impede the dredging of those parts of the Sunk and Trinity Deep Water Routes:

(i) shown shaded in yellow and outlined in a bold black line (and labelled Sunk Area A (22m CD)) to a level of 22 metres below Chart Datum;

(ii) shown shaded in yellow and outlined in a blue dotted line (and labelled Trinity (22m CD)) to a level of 22 metres below Chart Datum; and

(iii) shown shaded in yellow and cross hatched in orange (and labelled Sunk Area B (19m CD)) to a level of 19 metres below Chart Datum.];

(iv) and in all cases (i) to (iii) makes allowance for an ‘over-dredge’ in addition to the stated depths attributable to standard dredging methodology

Maintenance of the authorised development

4.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) Maintenance works include but are not limited to—

- (a) offshore electrical components;
- (b) painting and applying other coatings;
- (c) bird waste and marine growth removal;
- (d) cable remedial burial;
- (e) cable repairs and replacement;
- (f) cable protection replenishment;

- (g) access ladder and boat landing replacement; and
- (h) J-tube repair/replacement.

(3) In undertaking activities under condition 4(2 (f)), other than within the areas shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% unless agreed with the MMO in writing following consultation with the MCA

(4) An operation and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan must be submitted to the MMO for approval in consultation with the relevant SNCB and the PLA at least six months prior to the commencement of the operation of the licensed activities. All operation and maintenance activities must be carried out in accordance with the approved plan.

Vessels under the undertaker's control

5.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct in accordance with the provisions of the working in proximity to wildlife plan.

(2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

6. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this marine licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 16; and
 - (ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 16;
- (b) within 28 days of receipt of a copy of this marine licence and any subsequent variations to it those persons referred to in paragraph (1)(a) above must provide a completed confirmation form to the MMO confirming receipt of this marine licence.

(2) Only those persons and vessels notified to the MMO in accordance with condition 16 are permitted to carry out the licensed activities.

(3) Copies of this marine licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and

- (c) on board each vessel and at the office of any offshore operations managers with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.
- (5) The undertaker must ensure that a copy of this marine licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to carry on any licensed activity set out in condition 16(3), and that a copy of this marine licence is held on board any such vessel.
- (6) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised development.
- (7) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities and within five days of the completion of the licensed activity.
- (8) The undertaker must inform the Kingfisher Information Service of details regarding the vessel routes, timings and locations relating to the construction of the authorised development or relevant stage—
- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Bulletin and offshore hazard awareness data; and
 - (b) as soon as reasonably practicable, and in any event no later than 24 hours after completion of construction of all offshore activities, confirmation of notification must be provided to the MMO in writing within five days.
- (9) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised development or any relevant stage advising of the start date of Work Nos. 2, 2A and 3 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA, the PLA and UK Hydrographic Office within five days of issue.
- (10) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and the notices must be supplemented with VHF radio broadcasts agreed with the MCA in accordance with the project environmental management plan approved under deemed marine licence condition 13(1)(d) and monitoring plan approved under condition 13(1)(f). Copies of all local notifications must be provided to the MMO, the PLA and UK Hydrographic Office within five days of issue, save for in the case of a notice relating to operations and maintenance, which must be provided within 24 hours of issue.
- (11) The undertaker must notify the UK Hydrographic Office of the commencement (within fourteen days), progress and completion of construction (within fourteen days) of the licensed activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA and the PLA within five days of the notification.
- (12) In case of damage to, or destruction or decay of, the authorised development seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MCA, the PLA, Trinity House, the Kingfisher Information Service and the UK Hydrographic Office.
- (13) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, the MCA, the PLA, Trinity House and the UK Hydrographic Office within five days.

(14) The undertaker must notify the MMO and the PLA in writing a minimum of five days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity. Such a notification must include proposed timings and a description of proposed methodologies.

(15) The undertaker must ensure that the MMO, the MMO Local Office, the PLA, local mariners, local fishermen's organisations and the Source Data Receipt Team at the UK Hydrographic Office, Taunton, Somerset, TA1 2DN (sdr@ukho.gov.uk) are notified within five days of completion of each instance of cable repair, replacement or protection replenishment activity.

Aids to navigation

8.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised development seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning of the authorised development seaward of MHWS keep Trinity House and the MMO and the PLA informed in writing of progress of the authorised development seaward of MHWS including the following—

- (a) notice of commencement of construction of the authorised development within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised development.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 13(1)(i) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised development seaward of MHWS notify Trinity House and the MMO in writing of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 7(12) or 7(13) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

(6) Any jack up barges or vessels utilised during the licensed activities, when jacked up, must exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.

Colouring of structures

9. The undertaker must colour all offshore substation platform foundations yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

Aviation safety

10.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2016(a) and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed in writing with the Ministry of Defence.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

- (a) the date of the commencement of the licensed activities;
- (b) the date any offshore electrical installations are to be installed;
- (c) the maximum height of any construction equipment or vessels to be used;
- (d) the maximum heights of offshore electrical installations to be constructed (including any antennae);
- (e) the latitude and longitude of each offshore electrical installations to be constructed,

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph of this condition and of the completion of the construction of the authorised development. Copies of notifications must be provided to the MMO.

Chemicals, drilling and debris

11.—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised development must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(b) (as amended) as maintained by the Centre for Environment, Fisheries and Aquaculture Science.

(2) The undertaker must ensure that any coatings and/or treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by Health and Safety Executive.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, vessels or cables and drilling mud is disposed of within the Order limits seaward of MHWS.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised development is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office in writing within 48 hours of becoming aware of it and if the MMO, in consultation with the MCA and Trinity House, reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it at its own expense.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the marine environment through the freeing ports.

(8) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported in writing to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 13(1)(d)(i).

(9) All dropped objects within the Order limits must be reported to the MMO using the dropped object procedure form as soon as reasonably practicable following the undertaker becoming aware of an incident. On receipt of the dropped object procedure form, the MMO

(10) may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

Force majeure

12.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO in the manner provided in condition 11(10).

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

13.—(1) The licensed activities for each stage of construction of the authorised development must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, and UK Hydrographic Office and relevant SNCB **and in the case of activities within the Area of Interest the PLA —**

- (a) A design plan, prepared in accordance with the offshore project design principles document at a scale of between 1:25,000 and 1:50,000, or in such other format as may be appropriate, including detailed representation on the most suitably scaled chart, which shows for the relevant stage—
- (i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each offshore substation platform, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions discovered post approval under this condition and choice of foundation types for all offshore electrical installations;
 - (ii) the dimensions of all offshore electrical installations to be installed, including any antennae;
 - (iii) the length, **depth and** arrangement of cables comprised in Work Nos. 2, 2A and 3 **including cable crossings**;
 - (iv) the type and dimensions of all foundations for the offshore substation platforms;
 - (v) the proposed layout of all offshore electrical installations including any exclusion zones identified under sub-paragraph 13(2)(d); and
 - (vi) any exclusion zones or micro-siting requirements identified in any mitigation plan pursuant to sub-paragraph 13(2)(d) or relating to any habitats of principal importance identified as part of surveys undertaken in accordance with condition 17;

to ensure conformity with the description of Work Nos. 2, 2A and 3 and compliance with conditions 1, 2 and 3 above;

- (b) a construction programme to include details of—
- (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works; and
 - (iii) an indicative written construction programme for all offshore electrical installations and cable comprised in the works at paragraphs 2 and 3 of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above),

unless otherwise agreed in writing with the MMO;

- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details for the relevant stage of—
 - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to subparagraph 13(1)(f);
 - (ii) contractors; and
 - (iii) associated ancillary works.;
- (d) a project environmental management plan in accordance with the outline project environmental management plan covering the period of construction for the relevant stage to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with and report any spills and collision incidents of the authorised development in relation to all activities carried out;
 - (ii) a chemical risk register to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised;
 - (iv) waste management and disposal arrangements; and
 - (v) a working in proximity to wildlife plan in accordance with the outline working in proximity to wildlife plan and including details of a best practice protocol for the protection of red throated divers restricting the laying of the electrical export cables forming part of Work No 2(c) within the Outer Thames Estuary special protection area between 1st November and 1st March (inclusive) in any year without the prior consent in writing of the MMO;
- (e) details of proposed pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 17, 18 and 19;
- (f) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol for that stage, in accordance with the outline marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, including details of soft start procedures with specified duration periods following current best practice as advised by the relevant statutory nature conservation bodies;
- (g) a cable specification and installation plan for the relevant stage **substantially in accordance with** the principles of the outline cable specification and installation plan, to include—
 - (i) technical specification of offshore cables (including fibre optic cable) below MHWS within that stage, including a desk-based assessment of cable burial depth in accordance with good industry practice;
 - (ii) **a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 3(3) within the Area of Interest**
 - (iii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment **demonstrating compliance with condition 3(3) above in the case of cable protection within the Area of Interest and otherwise encompassing** the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA, **the PLA** and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;

- (iv) proposals for the volume, **depth** and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes **actual depths** and areas post construction;
- (v) proposals for the volume and areas of cable protection within the Margate and Long Sands special area of conservation, and proposals for timing and methodology for reporting on actual volumes and areas post construction, in accordance with the Margate and Long Sands special area of conservation benthic mitigation plan; and
- (vi) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;
- (h) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 relating to that stage for the lifetime of the authorised development;
- (i) an offshore monitoring plan for the relevant stage which accords with the principles set out in the offshore in principle monitoring plan setting out the circumstances in which monitoring will be required and the monitoring to be carried out in such circumstances.
- (j) a navigation and installation plan for the relevant stage **which is in substantial accordance** with the principles set out in the outline navigation and installation plan;
- (k) a fisheries liaison and co-existence plan for the relevant stage which accords with the principles set out in the outline fisheries liaison and co-existence plan.

(2) Subject to condition 13(3), the licensed activities or any relevant stage of those activities must not commence unless no later than six months prior to the commencement a marine written scheme of archaeological investigation for the stage in construction has been submitted to and approved by the MMO in writing, in accordance with the outline marine written schemes of investigation, and in accordance with industry good practice, in consultation with the statutory historic body to include—

- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (b) a method statement for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
- (c) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within six months of any survey being completed;
- (d) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones prior to construction;
- (e) monitoring of archaeological exclusion zones during and post construction, including provision of a report on such monitoring;
- (f) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS ('online access to the index of archaeological investigations') form with a digital copy of the report within six months of completion of construction of the authorised development, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
- (g) a reporting and recording protocol, designed in reference to the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by the Crown Estate and reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised development; and
- (h) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a method statement

produced under the written scheme of investigation specific to the relevant pre-construction activities (which must accord with the details set out in the outline marine written schemes of investigation) which has been submitted to and approved by the MMO in consultation with the statutory historic body.

(4) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive monopile foundations must not exceed 7,000kJ and the hammer energy used to drive or part-drive pin pile foundations must not exceed 3,000kJ.

(5) No more than two main vessels may be engaged at any time in activities related to piling for the licenced activities. There will only be a maximum installation of two monopile foundations or 8 pin piles within a 24-hour period. It is possible for installation of the two piled foundations to occur concurrently i.e. within a 24-hour period at up to two locations within the area of Work No. 2 or up to two locations within the array. The two piled foundation locations may also be piled sequentially.

(6) No percussive piling associated with offshore substation platform foundations may take place between 25th November to 3rd January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO.

(7) The undertaker must, before submitting any pre-construction plans and documentation required under this condition, provide a copy of the plans and documentation to any other undertaker to whom part of the benefit of this Order has been transferred or leased pursuant to article 7 (benefit of the order) of the Order.

(8) The undertaker to whom part of the benefit of the Order has been transferred or leased pursuant to article 7 (benefit of the order) must provide any comments on the plans and documentation to the undertaker within 14 days of receipt.

(9) The undertaker must participate in liaison meetings as requested from time to time by the MMO in writing in advance and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence issued under this Order (including as varied or transferred).

14.—(1) Except where otherwise stated or agreed in writing with the MMO, each programme, statement, plan, protocol or scheme required to be approved under condition 13 (save for that required under condition 13(1)(f)) must be submitted for approval at least six months prior to the intended commencement of the relevant stage of the licensed activities.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 13(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

- (a) at least six months prior to the first survey of the relevant stage, detail of any pre-construction surveys and an outline of all proposed monitoring;
- (b) at least six months prior to construction, detail on construction monitoring; and
- (c) at least six months prior to commissioning, detail of postconstruction (and operational) monitoring.

(3) The MMO must determine an application for approval made under condition 13 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker such agreement not to be unreasonably withheld or delayed.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 13, unless otherwise agreed in writing by the MMO

(5) The plans, protocols, statements, schemes and details submitted under condition 13 must ensure that any residual effects fall within the scope of those predicted in the environmental statement.

Offshore safety management

15.—(1) No stage of the authorised development may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and adequately addressed all MCA recommendations as appropriate to the authorised development contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

(2) No stage of the authorised development may commence until the MMO, in consultation with the MCA, has confirmed in writing that an emergency response co-operation plan has been prepared by the undertaker.

Reporting of engaged agents, contractors and vessels

16.—(1) The undertaker must provide the following information to the MMO—

- (a) the name, company number, address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
- (b) each week during the construction of the authorised development a list of the vessels currently and to be used in relation to the licensed activities, including the master’s name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

(3) The undertaker must notify the MMO in writing not less than 24 hours prior to the commencement of major component exchanges, ladder replacements or cable related works—

- (a) any agents, contractors or subcontractors that will carry out such works; and
- (b) any vessel proposed to be used for such works, including the master’s name, vessel type, vessel IMO number and vessel owner or operating company.

Pre-construction monitoring and surveys

17.—(1) The undertaker must in discharging condition 13(1)(e) for construction submit a monitoring plan in accordance with an offshore in principle monitoring plan for written approval by the MMO in consultation with the relevant statutory bodies **and the PLA**, which must contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report and—

- (a) the survey proposals must be in accordance with the principles set out in the outline marine monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the preconstruction position, with any limitations, and must make clear what postconstruction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this condition, the pre-construction survey proposals must comprise, in outline—

- (a) a full sea floor coverage swath–bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, of the Order limits and a buffer outside to—

- (i) determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the outline marine monitoring plan;
 - (ii) inform future navigation risk assessments as part of the cable specification and installation plan; and
 - (iii) inform the identification of any archaeological exclusion zone and post consent monitoring of any such archaeological exclusion zone;
- (b) a bathymetric survey that meets the requirements of IHO S44ed5 Order 1a of the area within the Order Limits within which it is proposed to carry out construction works.

(3) The pre-construction survey(s) carried out pursuant to condition 17(2)(a)(ii) and 17(2)(c) must fulfil the requirements of MGN654 and its supporting ‘Hydrographic Guidelines for Offshore Renewable Energy Developer’ (as relevant).

(4) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(5) Following completion of a survey carried out pursuant to this condition and prior to construction of the relevant stage, the undertaker must provide a report and full density data of the survey outcomes to the MMO, the relevant statutory nature conservation body, the MCA and UK Hydrographic Office as relevant.

Construction monitoring

18.—(1) The undertaker must, in discharging condition 13(1)(e), submit a construction monitoring plan or plans for that stage in accordance with the offshore in principle monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body, which must include details of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this condition the construction monitoring plan must include, in outline vessel traffic monitoring by automatic identification system for the duration of the construction period, with provision for a report to be submitted to the MMO, Trinity House, and the MCA annually during the construction period for the authorised development.

(3) The undertaker must carry out the surveys specified within the construction monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Post-construction monitoring

19.—(1) The undertaker must, in discharging condition 13(1)(e), submit a post-construction monitoring plan or plans for that stage in accordance with an offshore in principle monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals the post-construction survey plan or plans must include, in outline—

- (a) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones. The data will be analysed by an accredited archaeologist as defined in the marine written scheme of archaeological investigation required under condition 13(2); and
- (b) vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of the authorised development, unless otherwise agreed in writing by the MMO, with provision for a report to be submitted annually to the MMO, Trinity House, and the MCA.
- (3) The undertaker must carry out the surveys agreed under the post-construction monitoring plan or plans in accordance with that plan or plans and provide the agreed reports in the agreed format, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.
- (4) Within 12 weeks of completion of any cable repair or replacement works, the undertaker must undertake a post installation survey along the section of cable that has undergone repair or replacement to demonstrate the successful burial of the cable, and submit a report to the MMO in writing on its findings.

Timing of monitoring report

20. Any monitoring report compiled in accordance with the monitoring plans provided under conditions 17, 18 and 19 must be provided to the MMO no later than four months following receipt by the undertaker of the results of monitoring to which it relates, unless otherwise agreed with the MMO in writing.

Reporting of impact pile driving

21.—(1) In the event that driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of each stage of construction of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry’s Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry’s Close Out requirements; and
- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry’s Close Out requirements.

(2) The undertaker must notify the MMO in writing of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition, “Forward Look” and “Close Out” mean the requirements as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) as amended, updated or superseded from time to time.

Maintenance reporting

22.—(1) An annual maintenance report must be submitted to the MMO in writing within one month following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 4 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within one month of that date, a consolidated maintenance report, which will—

- (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition 22(1) of this licence;

- (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Stages of construction

23.—(1) The licenced activities must not be commenced until a written scheme setting out the stages of construction of the authorised development seaward of MHWS has been submitted to and approved by the MMO in writing.

(2) The scheme must be implemented as approved.

(3) The written scheme referred to in sub-paragraph (1) must be submitted to the MMO in writing four months prior to the planned commencement of the licenced activities.

Completion of construction

24.—(1) The undertaker must submit a close out report in writing to the MMO and the relevant statutory nature conservation body within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the final number of installed offshore electrical installations

(2) Following completion of construction, no further construction activities can be undertaken under this licence.

25. The undertaker must submit a close out report to the MCA and the UK Hydrographic Office within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following—

- (a) the final number of installed offshore electrical installations;
- (b) a plan of the layout of installed offshore electrical installations; and
- (c) latitude and longitude coordinates of the centre point of the location of each offshore electrical installation, provided as Geographical Information System data referenced to WGS84 datum.

Reporting cable protection

26.—(1) Not more than four months following completion of the construction of the authorised project, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection used for the authorised project.

(2) The report must include the following information—

- (a) the location of cable protection;
- (b) the volume of cable protection; and
- (c) any other information relating to the cable protection as agreed between the MMO and the undertaker

Deployment of cable protection

27. Any cable protection authorised under this licence must be deployed within 10 years from the date of the grant of the Order unless otherwise agreed by the MMO in writing.