

Outer Dowsing Offshore Wind

The Applicant's Written Summary of Oral Case Put at the Issue Specific Hearing 1 held on 4 December 2024

Deadline 3

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Acronyms & Definitions

Abbreviations / Acronyms

Abbreviation / Acronym	Description
BMV	Best and Most Versatile
DCO	Development Consent Order
ECC	Export Cable Corridor
EIA	Environmental Impact Assessment
ES	Environmental Statement
HND	Holistic Design Network
IAQM	Institute of Air Quality Management
NESO	National Energy Systems Operator
NGSS	National Grid Substation
oCoCP	Code of Construction Practice
OFH	Open Floor Hearing
OnSS	Onshore Substation
OTNR	Offshore Transmission Network Review
SMP	Soil Management Plan

Terminology

Term	Definition
The Applicant	GT R4 Ltd. The Applicant making the application for a DCO. The Applicant is GT R4 Limited (a joint venture between Corio Generation (and its affiliates), Total Energies and Gulf Energy Development (GULF)), trading as Outer Dowsing Offshore Wind. The Project is being developed by Corio Generation, TotalEnergies and GULF.
Cumulative impact	Impacts that result from changes caused by other past, present or reasonably foreseeable actions together with the Project.
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for a Nationally Significant Infrastructure Project (NSIP).
Effect	Term used to express the consequence of an impact. The significance of an effect is determined by correlating the magnitude of the impact with the sensitivity of the receptor, in accordance with defined significance criteria.
Environmental Impact Assessment (EIA)	A statutory process by which certain planned projects must be assessed before a formal decision to proceed can be made. It involves the collection and consideration of environmental information, which fulfils the assessment Requirements of the EIA Regulations, including the publication of an Environmental Statement (ES).
Environmental Statement (ES)	The suite of documents that detail the processes and results of the EIA.

Term	Definition
Export cables	High voltage cables which transmit power from the Offshore Substations (OSS) to the Onshore Substation (OnSS) via an Offshore Reactive Compensation Platform (ORCP) if required, which may include one or more auxiliary cables (normally fibre optic cables).
High Voltage Alternating Current (HVAC)	High voltage alternating current is the bulk transmission of electricity by alternating current (AC), whereby the flow of electric charge periodically reverses direction.
Impact	An impact to the receiving environment is defined as any change to its baseline condition, either adverse or beneficial.
Landfall	The location at the land-sea interface where the offshore export cables and fibre optic cables will come ashore.
Link boxes	Underground metal chamber placed within a plastic and/or concrete pit where the metal sheaths between adjacent export cable sections are connected and earthed.
Mitigation	Mitigation measures are commitments made by the Project to reduce and/or eliminate the potential for significant effects to arise as a result of the Project. Mitigation measures can be embedded (part of the project design) or secondarily added to reduce impacts in the case of potentially significant effects.
National Grid Onshore Substation (NGSS)	The National Grid substation and associated enabling works to be developed by the National Grid Electricity Transmission (NGET) into which the Project's 400kV Cables would connect.
Onshore Export Cable Corridor (ECC)	The Onshore Export Cable Corridor (Onshore ECC) is the area within which, the export cables running from the landfall to the onshore substation will be situated.
Onshore substation (OnSS)	The Project's onshore HVAC substation, containing electrical equipment, control buildings, lightning protection masts, communications masts, access, fencing and other associated equipment, structures or buildings; to enable connection to the National Grid
Outer Dowsing Offshore Wind (ODOW)	The Project.
Order Limits	The area subject to the application for development consent, The limits shown on the works plans within which the Project may be carried out.
The Planning Inspectorate	The agency responsible for operating the planning process for Nationally Significant Infrastructure Projects (NSIPs).
Pre-construction and post-construction	The phases of the Project before and after construction takes place.

Term	Definition
The Project	Outer Dowsing Offshore Wind, an offshore wind generating station together with associated onshore and offshore infrastructure.
Project design envelope	A description of the range of possible elements that make up the Project’s design options under consideration, as set out in detail in the project description. This envelope is used to define the Project for Environmental Impact Assessment (EIA) purposes when the exact engineering parameters are not yet known. This is also often referred to as the “Rochdale Envelope” approach.

1 Introduction and Document Purpose

1. This document is provided in line with the Examining Authority's (ExA's) Rule 8 letter [PD-011] request for submission of "*written summaries of oral case put at any of the hearings during the w/c 2 December 2024*".
2. Issue Specific Hearing 1 (ISH1) for the Outer Dowsing Offshore Wind Farm took place on 4 December 2024 at 10am and was held virtually, with attendees attending via Microsoft Teams.
3. The ISH1 broadly followed the agenda published by the Examining Authority (the ExA) on 26 November (the Agenda) (EV5-001).
4. Summaries of oral submissions of parties other than the Applicant are provided only to the extent necessary to give the Applicant's submissions necessary context.

2 Written Summary of Oral Case Put at the Issue Specific Hearing 1

Table 0.11: Written Summary of the Applicant’s Oral Case at ISH1

Agenda Item	ExA Question / Context for discussion	Applicant’s Response
3.1 Welcome and Introductions		
3.1	The ExA opened the hearing, introduced themselves and invited parties present to introduce themselves.	<p>Mr Scott McCallum, Partner and Solicitor, Shepherd and Wedderburn LLP on behalf of the Applicant introduced the following members of the Applicant’s team</p> <ul style="list-style-type: none"> a. Miss Emma Moir, Senior Associate at Shepherd and Wedderburn; b. Mr George Bruce, Solicitor at Shepherd and Wedderburn; c. Ms Emma Reid, Director at Shepherd and Wedderburn; d. Mr Stephen Hubner, Consultant at Shepherd and Wedderburn; e. Mr Chris Jenner, Development Manager for the Applicant; f. Mr Greg Tomlinson, Offshore Consents Manager for the Applicant; g. Mrs Sophie Brown, Onshore Consents Manager for the Applicant; h. Ms Beth Travis, Consent Delivery Lead for the Applicant, who was screen sharing; i. Mr Jake Laws, Habitats Regulations Assessment and Compensation Manager for the Applicant
3.2 The draft Development Consent Order		
3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)		

Agenda Item	ExA Question / Context for discussion	Applicant's Response
3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)	The ExA asked the Applicant to give an overview of each part of the draft DCO, making clear that the Applicant could outline it now and provide the full script of its submission thereafter	Scott McCallum set out on behalf of the Applicant an overview of the DCO and committed to providing a full script for this explanation which is set out in Appendix 1. ¹
3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)	The ExA referred to Article 2 and raised the question of the difference in definition between “authorised development” and “authorised project”	<p>Scott McCallum stated for the Applicant that the authorised development means the development described in Part 1 of Schedule 1 and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act. The authorised project encompasses both the authorised development and the ancillary works, which are defined as the ancillary works described in Part 2 of Schedule 1 and any other works authorised by the Order which are not development within the meaning of section 32 of the 2008 Act.</p> <p>Following the hearing, the Applicant has reviewed the use of the terms “authorised project” and authorised development” throughout the draft DCO, and considers that there were a few instances where the terms were being used inconsistently in the drafting. In most cases, whether the reference is to the authorised project or the authorised development makes little practical difference. In order to rectify the noted inconsistency, the Applicant</p>

¹ Note as requested by the ExA this overview provides the full description of the overview rather than being restricted to the oral submissions made in the Hearing. These submissions are set out in an appendix to avoid the main summary becoming unwieldy.

Agenda Item	ExA Question / Context for discussion	Applicant's Response
		<p>has made a number of changes to the draft DCO to ensure the appropriate term is used consistently. It should also be noted that as part of this review, it was noted that “authorised project” or “authorised development” were being used in the deemed marine licences, where that should have been a reference to the “authorised scheme” as defined in each deemed marine licence. This has also been rectified in the draft DCO.</p> <p>The term most commonly used in the draft DCO is authorised project, as the powers conferred by the Order are to be granted to facilitate the construction, operation and maintenance of the authorised project, including both those parts that fall within the definition of authorised development (including the infrastructure permitted to be constructed) and all ancillary works that are necessary for that whether or not these constitute “development”. Where authorised development is used, the context requires this, for example, in the definition of cable circuits, reference is made to transmission of electricity between two points within the authorised development. Given that cable circuits are a component part of the Works set out in Schedule 1, Part 1, while they also form part of the authorised project, reference the authorised development in this context is considered to be more specific and therefore clearer.</p>

Agenda Item	ExA Question / Context for discussion	Applicant's Response
<p>3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)</p>	<p>In relation to “ancillary works”, the ExA asked what “any other works authorised by this Order” under ancillary works would entail.</p>	<p>Scott McCallum explained that this may entail works not specifically narrated in Schedule 1 but which are authorised via various Articles, an example of which would be street works such as moving road furniture, given it is not included in Schedule 1 but is authorised by Article 15 (subject to the controls and limitations specified within that Article).</p> <p>The ExA asked that the Applicant provide a signpost to those Articles that contain works that fall under the heading of “any other works”. Following the hearing, the Applicant has reviewed the draft DCO, and considers that the following articles permit other works:</p> <ul style="list-style-type: none"> ▪ Article 9 (street works) ▪ Article 11 (Temporary stopping up of public rights of way); ▪ Article 12 (Temporary stopping up of streets); ▪ Article 13 (Access to works); ▪ Article 15 (Power to alter layout etc. of streets); ▪ Article 16 (Traffic regulation); ▪ Article 17 (Discharge of water); ▪ Article 18 (Authority to survey and investigate the land onshore); ▪ Article 28 (Temporary use of land for carrying out the authorised project); ▪ Article 29 (Temporary use of land for maintaining authorised project);

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		<ul style="list-style-type: none"> ▪ Article 36 (Felling or lopping of trees and removal of hedgerows); and ▪ Article 37 (Trees subject to tree preservation orders). <p>The form of the articles noted above and the powers conferred by them are common in DCOs for offshore wind farms and other NSIPs.</p>
<p>3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)</p>	<p>The ExA asked whether “any other works” are set out in the draft DCO and whether the Applicant was satisfied that such works were covered within the draft DCO as a whole and there was not opportunity for ambiguity as to what works would be carried out and authorised.</p>	<p>Scott McCallum stated that:</p> <ul style="list-style-type: none"> a. a list of “any other works” is not provided in the draft DCO but are included in the DCO by reference to the various Articles which allow such activities b. the Applicant believes it is clear in terms of the Order as a whole what works are authorised and what controls and limitations these are subject to.
<p>3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)</p>	<p>The ExA ask why “authorised project” rather than “authorised development” is used within the definition of “commencement” (“in respect of any other works comprised in the authorised project...”)</p>	<p>Scott McCallum committed to consider this point and provide the Applicant’s position in writing.</p> <p>Having considered the definition of “commence” the Applicant’s position is that it is appropriate for this to refer to the authorised project rather than the authorised development. By referring to the authorised project, this ensures that anything that could constitute a material operation within the parameters of the authorised project is captured by the definition, and that works could not proceed uncontrolled.</p>

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		<p>There is substantial precedent for the use of the term authorised project in the definition of commence in other offshore wind farm DCOs, such as the East Anglia ONE North Offshore Wind Farm Order 2022, the East Anglia TWO Offshore Wind Farm Order 2022, the Hornsea Three Offshore Wind Farm Order 2020, the Hornsea Four Offshore Wind Farm Order 2023, the Norfolk Boreas Offshore Wind Farm Order 2021, the Norfolk Vanguard Offshore Wind Farm Order 2022, and the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024.</p>
<p>3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)</p>	<p>The ExA asked why demolition works and, later, welfare facilities and footpaths were excluded in the list of preparation works</p>	<p>Scott McCallum set out that this his immediate instinct was that these were excluded because no such demolition works, welfare facilities, or footpaths are expected to be needed at preparation works stage.</p> <p>In response to the Applicant action to comment on the exclusion of works relating to welfare facilities and footpaths, the Applicant has confirmed that following consideration of the drafting, it remains content that no demolition works and welfare facilities require to be added but the Applicant has sought to add “footpath creation” to the list of “preparation works” within the draft DCO as set out in the Schedule of Changes to the draft DCO (3.1.1).</p>
<p>3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)</p>	<p>The ExA asked whether the “environmental survey” definition was intended to cover all types of environmental surveys or whether there should be a distinction between intrusive and non-intrusive surveys and whether the former should be defined as</p>	<p>Scott McCallum set out that it is intended to cover both and the Applicant did not see the need to distinguish between the two.</p>

Agenda Item	ExA Question / Context for discussion	Applicant's Response
	<p>seen in some made DCOs. In particular, the ExA referenced the definition of “intrusive” in the East Anglia ONE North and TWO Offshore Wind Farm Orders.</p>	<p>Scott McCallum elaborated that onshore preparation works intended to allow both and that management plans require to be submitted in advance of onshore preparation works which would mitigate any impact of the works, including an ecological management plan (Requirement 12(2)) and a written scheme of investigation in relation to archaeology (Requirement 17(2)). This approach would allow intrusive and non-intrusive surveys in order to get ready for works proper.</p> <p>Scott McCallum stated that should the two survey types be split, it would raise the question of whether any Requirements would require to be discharged prior to non-intrusive surveys.</p> <p>The Applicant committed to consider the need to distinguish between intrusive and non-intrusive environmental surveys and respond in writing and provide greater clarity on what would constitute an intrusive survey.</p> <p>Having now reviewed the definition of “intrusive” as set out in the East Anglia ONE North and East Anglia TWO Offshore Wind Farm Orders, and its use therein, the Applicant does not consider that such a distinction, or the inclusion of a similar definition, is necessary in this instance.</p>

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		<p>In the above noted Orders, “intrusive” is defined as “an activity that requires or is facilitated by breaking the surface of the ground or seabed (but does not include the installation of fence or signage posts)”. The term is then used in relation to onshore preparation works in Requirement 19 (Pre-commencement archaeology execution plan) which requires the submission of an archaeology execution plan prior to commencement of any intrusive onshore preparation works. The effect of this is that no such plan is required for non-intrusive archaeological surveys.</p> <p>The Applicant's Requirement 17(2) requires that archaeological investigations carried out as part of onshore preparation works must only take place in accordance with a specific written scheme of investigation (WSI). Having taken advice from the Applicant’s archaeologist, the Applicant understands that in the event that further non-intrusive archaeological surveys are to be undertaken, these would be undertaken under a WSI approved by LCC, as has been the case to date for such non-intrusive investigations. As such, the Applicant does not consider it is necessary to distinguish between intrusive and non-intrusive archaeological surveys in the way that the above Orders do.</p>

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		<p>Taking each of the Applicant's other requirements in turn that must be discharged prior to onshore preparation works being carried out:</p> <ul style="list-style-type: none"> ▪ Requirement 12 requires an ecological management plan to be submitted and approved prior to onshore preparation works starting. As these works could include matters such as vegetation clearance which would not be considered intrusive, it is considered appropriate that this must be discharged prior to any onshore preparation works being carried out; and ▪ Requirement 22 requires a public access management plan (PAMP) to be submitted and approved prior to onshore preparation works starting if any of the works could affect a public right of way. Given the importance of public rights of way, it is considered appropriate that if any non-intrusive works had the potential to impact a public rights of way, measures are in place to control this by way of a PAMP. <p>In terms of the action on the Applicant to clarify what would constitute an intrusive survey, the Applicant considers the definition provided in the East Anglia ONE North and TWO Orders properly describes what would be intrusive, but maintains that no such definition is required in the draft DCO for the reasons outlined above.</p>

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3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)	The ExA referred to Article 19 and the procedure for removal of human remains. The ExA asked whether the Applicant had any reason to believe Human Remains will be encountered	The Applicant provided its position on Article 19 and the specific queries raised and took an action to consider the issue in light of the ExA's comments. The Applicant's position is set out in full in Appendix 2 of this Summary.
3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16)	The ExA further asked whether there was overlap between the outline Written Schemes of Investigation ("WSIs") and the procedure under Article 19. It noted that it was "fairly satisfied" that there was such overlap and asked whether there was any conflict between the WSIs and Article 19.	Scott McCallum noted that the intention of the article was for it to apply to the onshore Order limits only. The draft DCO submitted at Deadline 3 has been amended to make this clearer.
3.2.1 Articles and Schedules of the draft DCO (excluding Schedules 1, 10-16 to 16)	<p>The ExA asked whether Article 19 was intended to apply seaward of Mean High Water Springs, noting the drafting could apply to the offshore area. The ExA referred again to the potential conflict between Article 19 and the oWSIs and discussed the possibility of wrecks being identified on the seabed, which would be war graves, adding further sensitivity to the issue.</p> <p>The ExA made specific reference to paragraph 9.2 of the Secretary of State (SoS)'s Decision Letter on the Longfield Solar Farm DCO (EN010118) where the SoS removed Article 16 related to the removal and reburial or cremation of human remains.</p>	

3.2.2 Schedules 1, and 10 to 16 of the draft DCO – Requirements and Conditions

Agenda Item	ExA Question / Context for discussion	Applicant's Response
3.2.2 Schedules 1, and 10 to 16 of the draft DCO – Requirements and Conditions	The ExA asked whether the Applicant had a statement to provide on this agenda item.	Scott McCallum and Emma Reid set out on behalf of the Applicant an overview of the information requested in the bullet points within Agenda Item 3.2.2 (EV5-001) which, for brevity, has been set out in Appendix 1. ²
3.2.2 Schedules 1, and 10 to 16 of the draft DCO – Requirements and Conditions	<p>The ExA invited Interested Parties (“IPs”) to discuss Requirements and Conditions.</p> <p>In response, Lincolnshire County Council (“LCC”) set out its wish to be the discharging Local Planning Authority for the purpose of Requirements 10, 11 and 12 of the draft DCO or which failing a named consultee on Requirement 12.</p>	<p>Scott McCallum confirmed on behalf of the Applicant that</p> <ol style="list-style-type: none"> a. it was content with either (i) the LCC or (ii) South Holland District Council (DC), East Lindsay DC and Boston Borough Council (“the District and Borough Councils”) being the discharging authority and that it was happy for this matter to be discussed between the Councils and the outcome of those discussions to be confirmed to the Applicant. b. In the event it was decided that LCC would not be the discharging authority for Requirements 10 and 11, it was content with LCC’s second preference (LCC being a named consultee on Requirements 10 and 11). <p>Following ISH1, the Applicant received confirmation that LCC and the local planning authorities have agreed that LCC will be the discharging authority for Requirements 10, 11 and 12, and has amended the draft DCO submitted at Deadline 3 accordingly.</p>

² Note as requested by the ExA this overview provides the full description of the overview rather than being restricted to the oral submissions made in the Hearing. These submissions are set out in an appendix to avoid the main summary becoming unwieldy.

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<p>3.2.2 Schedules 1, and 10 to 16 of the draft DCO – Requirements and Conditions</p>	<p>The LCC set out its position on Requirement 12 – that BNG (either principle or percentage) – should be secured on the face of the draft DCO. If it is not to be secured in the DCO it should not be weighed in the planning balance.</p> <p>The ExA made clear that this would form part of the discussion at Issue Specific Hearing 3 but noted that its view was that if a commitment was not defined or secured via the DCO then it would be apportioned little weight in the planning balance.</p> <p>The ExA invited the Applicant to respond.</p>	<p>Noting the future agenda item on the topic, Scott McCallum set out the Applicant's general position being that:</p> <ul style="list-style-type: none"> a. the Applicant is seeking to deliver Net Gain but that there is difficulty with the metric to be used: it is not considered that the current metric is appropriate for long linear schemes such as the Applicant's and new metrics are still being developed; b. the Applicant has taken the approach of outlining what BNG activities it will be taking forward via the OLEMS (PD1-054) and the Applicant will continue to update the OLEMS to add biodiversity enhancements where appropriate; c. As a result, the DCO does not include a specific Requirement but instead the details of activities are included within the OLEMS.
<p>3.2.2 Schedules 1, and 10 to 16 of the draft DCO – Requirements and Conditions</p>	<p>Though it noted it would discuss the substance of the issue at Issue Specific Hearing 3, LCC set out its position on Requirement 17: that its preference would be to include a detailed Requirement, similar to that of Mallard Pass DCO, which required trial trenching on the face of the DCO rather than by reference to a Written Scheme of Investigation.</p>	<p>Emma Moir on behalf of the Applicant set out that the Mallard Pass DCO Requirement 10 is not appropriate or necessary given that the current drafting of the Applicant's DCO covers the necessary issues and in a clearer and more proportionate form:</p> <ul style="list-style-type: none"> a. The first limb of Mallard Pass DCO Requirement requires further trenching to be submitted to the County Council for approval. b. Additional trial trenching is committed to by the Applicant in the Onshore Outline WSI (document 8.9, version 3) in section 9.2. It is acknowledged in that section that the trial trenching will be informed

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		<p>by the results of the 2024 campaign which has been ongoing and that this will include the targeting of 'blank' areas in reference to all baseline data in order that trial trenching is proportionate and undertaken in areas of potential only.</p> <ul style="list-style-type: none"> c. The next limb of Mallard Pass DCO Requirement requires the additional trenching to be carried out as approved. d. The DCO permits "onshore preparation works" to be carried out which includes archaeological investigations, prior to commencement of the onshore transmission works. The additional pre-construction trial trenching will form part of the archaeological investigations that will take place under the remit of onshore preparation works. e. Any archaeological investigations carried out as part of onshore preparation works taking place must, under Requirement 17(2) of the draft DCO, only take place in accordance with a specific written scheme of investigation (which must accord with the outline onshore written scheme of investigation for archaeological works) which has been submitted to and approved by Lincolnshire County Council in consultation with the relevant planning authority and Historic England. f. Therefore, LCC have final approval over the proposed pre-construction trial trenching and the

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		<p>applicant is obliged to undertake the works in accordance with that Onshore OWSI.</p> <p>g. The third limb of the Mallard Pass DCO Requirement requires the outline plan to be updated with the results. Requirement 17(1) of the draft DCO requires a written scheme of archaeological investigation (which must accord with the outline onshore written scheme of investigation for archaeological works and is to be informed by the archaeological investigations carried out as part of the onshore preparation works) to be submitted to and approved by LCC in consultation with the relevant planning authority and Historic England before any stage of the onshore transmission works can commence. As such, a WSI will be issued to LCC for approval in advance of each stage of the construction works.</p> <p>h. It is therefore not considered necessary for the outline plan to be updated post-consent, nor would it be usual practice for the construction to proceed based on an approved outline as opposed to a more detailed plan or scheme under the remit of that outline.</p> <p>i. It is considered that the approach set out in Requirement 17 for both archaeological investigations carried out as part of onshore preparation works and any archaeological works during each stage of the development of the</p>

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		<p>onshore transmission works provides a sufficient level of oversight for LCC. LCC is the approving authority under this Requirement and so if they are not content with a WSI submitted for approval they need not approve it. The risk of failing to gather and present the information required by LCC therefore sits with the undertaker in seeking approval in order to proceed to commence the relevant works.</p>
<p>3.2.2 Schedules 1, and 10 to 16 of the draft DCO – Requirements and Conditions</p>	<p>The LCC set out its position on the timescales for approval of documents that are submitted to them under Articles 12 to 16 and welcomed the Applicant's extending of certain discharge time periods to 56 days in those articles. LCC noted that its highways team may encounter practical issues if all required approvals were sought at the same time and confirmed it would seek to discuss any issues with the Applicant outside of Hearing.</p> <p>The LCC also set out its position on the timescales for discharge of requirements set out in Schedule 20 of the draft DCO, and stated that a timescale of 13 weeks was requested. LCC referred to recent DCOs in Lincolnshire, being the Mallard Pass Solar Farm Order 2024 and the Gate Burton Energy Park Order 2024 which both include a period of 10 weeks. LCC later also directed the ExA to the Cottam Solar Project Order 2024 which includes a period of 13 weeks, and noted</p>	<p>Scott McCallum set out the following on behalf of the Applicant:</p> <ol style="list-style-type: none"> a. The Applicant agrees that such practicalities could be discussed in another forum. b. More generally, a balance is required to be struck on discharge and approval times, being the balance between (1) the urgent need for the project under national policy (where NPS EN-1 Paragraph 3.3.58 states there is "<i>an urgent need for new (and particularly low carbon) electricity NSIPS to be brought forward as soon as possible</i>") and (2) the fact that such urgency must be tempered by practical reality. c. The Applicant believes it has struck the right balance in extending the periods being offered for approvals required under the street works articles and where there is added complexity, but taking the view that extending the time period for discharge of all requirements would result in an inefficient and lengthy discharge process that was not justified.

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	that all of the above infrastructure projects are critical national priority infrastructure.	d. The Applicant was happy to continue to discuss this with the LCC to see if further comfort could be provided but that the Applicant is seeking to keep to a reasonable discharge period, with the timescales proposed being precedented or longer than in a number of other similar Offshore Wind Farm DCOs.
3.2.2 Schedules 1, and 10 to 16 of the draft DCO – Requirements and Conditions	<p>The ExA asked TH Clements whether it had any points to raise at this stage.</p> <p>TH Clements set out its positions on Requirements 18 and 31 regarding the Code of Construction Practice and the Soil Management Plan and its view that landowners / agricultural businesses should be included among the bodies which require to be consulted in these Requirements.</p>	<p>The Applicant referred to LU 1.15³ in which it had made clear it was content in principle to including such consultation on the final code of construction practice and the soil management plan prior to submission for approval to the relevant planning authority.</p> <p>Please note that the Outline CoCP and SMP have been updated at this deadline to reflect a commitment to consult with the Landowner Interest Group.</p>
3.2.3. Schedule 18 of the draft DCO – Protective Provisions		
3.2.3. Schedule 18 of the draft DCO – Protective Provisions	The ExA asked for an update on Protective Provisions (“PPs”) generally.	<p>Emma Moir set out on behalf of the Applicant the following update on Schedule 18 (Protective Provisions):</p> <p>a. Part 1: The PPs are standard PPs for the protection of electricity, gas, water and sewerage undertakers and to date the Applicant has not received any specific comment from statutory undertakers and</p>

³ Note, the incorrect question number was given during the Hearing and has been updated here.

Agenda Item	ExA Question / Context for discussion	Applicant's Response
		<p>therefore the Applicant is of the view that these are in final form;</p> <p>b. Part 2: s The PPs are standard PPs for the protection of electronic communications code network operators and to date the Applicant has not received any specific comment from such operators and therefore the Applicant is of the view that these are in final form;</p> <p>c. Part 3: The PPs have been agreed with Anglian Water and included in the draft DCO and are considered final;</p> <p>d. Part 4: The PPs are the subject of ongoing negotiation between the Environment Agency and the Applicant to address concerns raised in the Environment Agency's relevant representation [RR-018]. The Applicant awaits confirmation from the Environment Agency that this wording is acceptable but welcomes their confirmation in written representations [REP1-048] that they "are satisfied that Protective Provisions are the appropriate mechanism to resolve this issue". The Applicant awaits confirmation from the Environment Agency that the PPs as a whole are in a form acceptable but welcomes their response to ExQ1 DCO1.4 [REP2-067] which confirms that the Environment Agency is having productive discussions with the Applicant on this matter, and hopes to conclude these</p>

Agenda Item	ExA Question / Context for discussion	Applicant's Response
		<p>negotiations before the end of the Examination period.</p> <p>e. Part 5: The PPs are the subject of ongoing negotiation between the 5 relevant Internal Drainage Boards (“IDBs”) (South Holland, Lindsey Marsh, Black Sluice, Welland and Deepings, and Witham Fourth) and the Applicant. The proposed PPs are currently the subject of a review by the IDBs’ legal representative and the Applicant awaits confirmation that the PPs are in a form acceptable to the IDBs.</p> <p>f. Part 6: the PPs are agreed with Port of Boston Limited (“POBL”) and included in the draft DCO. A letter of consent to disapplication of legislation has also been provided by POBL (REP2-061). This provides written consent to the disapplication of legislation set out in article 34(1) of the draft DCO.</p> <p>Of those PPs which are being negotiated but are not yet in the draft DCO, Emma Moir set out the following:</p> <p>g. NGET: Discussions between the Applicant and NGET are ongoing. The version attached to NGET’s written rep (REP1-041) is the version that has been reviewed by the Applicant and the Applicant has provided its comments and suggested changes to NGET. There are a few remaining points of difference between the parties which are the subject of ongoing discussions;</p>

Agenda Item	ExA Question / Context for discussion	Applicant's Response
		<ul style="list-style-type: none"> <li data-bbox="1317 263 2045 491">h. Discussions between the Applicant and NGT are ongoing. There are a small number of remaining points of difference (which are the same points as being discussed in the NGET PPs) which the Applicant is seeking agreement upon as soon as possible. <li data-bbox="1317 497 2045 726">i. Cadent Gas: The Applicant acknowledges the Deadline 2 submission from Cadent Gas (REP2-084). The Applicant has received Cadent Gas's standard PPs which are currently being negotiated between the parties with the Applicant having reverted to Cadent on the proposed PPs. <li data-bbox="1317 732 2045 922">j. Network Rail: The PPs contain one outstanding point of difference between parties subject to on-going discussion where the Applicant is actively engaging with the Interested Party to seek to agree PPs as soon as possible. <li data-bbox="1317 928 2045 1118">k. Perenco: the Applicant is negotiating bespoke PPs to address concerns raised by Perenco regarding helicopter access and radar line of sight services which the applicant is engaging on and seeking to agree as soon as possible. <li data-bbox="1317 1125 2045 1313">l. Shell: the Applicant is negotiating PPs for protection of Shell's oil and gas assets and has sent Shell PPs for its consideration. The Applicant has a meeting arranged to discuss them and will seek to agree them as soon as possible.

Agenda Item	ExA Question / Context for discussion	Applicant's Response
3.2.3. Schedule 18 of the draft DCO – Protective Provisions	The ExA asked about timescales for protective provision delivery.	The Applicant confirmed that at Deadline 4 it would provide either the protective provisions agreed between the Applicant and the interested party or the Applicant's preferred PPs.
3.2.3. Schedule 18 of the draft DCO – Protective Provisions	The ExA raised an action for IPs not present who are party to PPs to provide commentary on progress towards agreement and to submit preferred PPs at Deadline 4 if not agreed.	
3.2.4. Schedule 21 of the draft DCO – Documents to be certified		
3.2.4. Schedule 21 of the draft DCO – Documents to be certified	The ExA raised an action for IPs not present to provide commentary on any documents to be certified at the next deadline.	
3.2.5. Securing of HRA compensation measures that have been advanced on a without prejudice basis		
3.2.5. Securing of HRA compensation measures that have been advanced on a without prejudice basis	The ExA asked – should it conclude that further compensation measures are required additional to those set out in Schedule 22 – how the Applicant would propose to secure these through the draft DCO.	Scott McCallum set out that the Applicant's starting presumption would be that any other compensation measures which were required would be added to Schedule 22. If this related to other topics, species, or habitats, they would form a separate part of the schedule.
3.2.5. Securing of HRA compensation measures that have been advanced on a without prejudice basis	The ExA asked what the relevant timescales would be for the provision on any other such measures in order for Statutory Nature Conservation Bodies to provide comments on them.	The Applicant set out that, if such additional measures are identified, ideally they would be provided into the Examination by Deadline 5.
3.2.5. Securing of HRA compensation measures that have been advanced	The ExA raised an action for Natural England and any other relevant Interested Party to comment on the topic of securing compensation measures within the draft DCO in response to this discussion.	

Agenda Item	ExA Question / Context for discussion	Applicant's Response
on a without prejudice basis		
3.2.6. Consents, licences and other agreements including any Transboundary matters		
3.2.6. Consents, licences and other agreements including any Transboundary matters	The ExA asked the Applicant its proposed timeframe for obtaining further consents that would be required for the proposed development to proceed.	<p>Scott McCallum on behalf of the Applicant referred to AS1-027 and provided the following update:</p> <ol style="list-style-type: none"> a. Regarding the Crown Estate (“TCE”), the Applicant has engaged with TCE and solicitors to progress S 135 consent. b. Regarding the Environment Agency and their consent for disapplication of certain environmental permitting provisions, good progress is being made and the Environment Agency have indicated in submissions (REP1-058) that it will progress this disapplication consent once PPs are agreed. c. Regarding IDBs, their consent to proposed disapplications is not required but is being sought as a matter of good practice. Their consent is again expected after agreement of protective provisions. d. Regarding Natural England and European Protected Species licences, which would be procured after DCO consent, the Applicant has sought and procured letters of no impediment from Natural England in relation to Great Crested Newt and Water Vole licences and committed to submitting these into the Examination. These letters have been submitted in Documents 20.11 and 20.12. The Applicant does not anticipate that other

Agenda Item	ExA Question / Context for discussion	Applicant's Response
3.2.6. Consents, licences and other agreements including any Transboundary matters	The ExA asked whether any Section 106 agreement was needed and was being explored.	<p>licences will be required but this will be subject to future, pre-construction check surveys.</p> <p>Scott McCallum set out the following:</p> <ul style="list-style-type: none"> a. LCC had identified in REP1-053 issues which it thought were apt for a S 106 agreement. The Applicant has met with LCC to discuss this. In respect of a number of the issues identified, the Applicant does not consider that a section 106 would be necessary or appropriate because the matters discussed are either covered elsewhere or are not addressing an identified impact. b. There are however matters which are still under discussion, including part funding an Environment Compliance Officer and to potentially contribute to an Ecology Enhancement Fund. c. The Applicant's view is that some of these issues could be dealt with by Requirements or updates to plans. However, given the LCC's preference to deal with these matters via Section 106 the Applicant is exploring that, and discussions are progressing well. d. The Applicant noted the deadline (deadline 6) for the completion and submission of a section 106, if any. .
3.2.7. Restrictive Covenants		
3.2.7. Restrictive Covenants	The ExA added a further agenda item to discuss wording of restrictive covenants and invited TH Clements to provide its position.	<p>Stephen Hubner, on behalf of the Applicant set out that:</p> <ul style="list-style-type: none"> a. The point regarding consent being expressly provided for in the wording of the restrictive covenant would be considered by the Applicant;

Agenda Item	ExA Question / Context for discussion	Applicant's Response
	<p>TH Clements set out its position that (1) the restrictive covenants were widely drawn where ordinary farming activities may “fall foul” of the current drafting; (2) that, in relation to the prevention of excavations to a depth greater than 0.75m, TH Clements wished a carve out for consent for excavation beyond that depth; (3) that its reading of Schedule 7 was that it “bites” in relation to some but not all circumstances and TH Clements were concerned the result may be restrictive covenants relating to land within the cable corridor being more restrictive than those set out in Schedule 7.</p>	<p>b. Regarding the restrictive covenants related to the cable corridor: Stephen Hubner’s reading of the draft DCO was that Article 22(1) is subject to Article 22(2), so the Applicant is necessarily incorporating the provisions of the restrictive covenants and is limiting those to the restrictive covenants set out in schedule 7 in respect of the plots that TH Clements had referred to.</p>
<p>3.2.7. Restrictive Covenants</p>	<p>TH Clements set out that it read the provisions differently and this would be discussed between parties.</p> <p>The ExA made action points for TH Clements and the Applicant to discuss restrictive covenant drafting.</p>	<p>The Applicant set out that it would respond to these points at Deadline 3.</p> <p>Since the hearing, the Applicant’s and TH Clements’ representatives have engaged in review of relevant drafting but have not yet reached a conclusion and expect to do so before D4; in the meantime to limit risk of confusion the Applicant has not sought to amend the draft DCO in this respect.</p>
<p>3.3 Actions arising from the Issue Specific Hearing</p>		
<p>3.3 Actions arising from the Issue Specific Hearing</p>	<p>The ExA set out the actions which were then discussed where necessary and have since been provided by the ExA in EV5-008.</p>	<p>The Applicant’s responses to each action requested at Deadline 3 have been provided as signposted in the Applicant’s Deadline 3 Cover Letter (Document 20.1).</p>
<p>3.4 Any other matter arising</p>		

Agenda Item	ExA Question / Context for discussion	Applicant's Response
3.4 Any other matter arising	<p>TH Clements made reference to the discussion at the Compulsory Acquisition Hearing as to the scope of Compulsory Acquisition under Articles 20 and 22. They raised that Article 28 regarding Temporary Possession is drafted “in broader scope” and that TH Clement’s position is that the same limitations seen in Articles 20 and 22 should apply. TH Clements set out its position as to why it thought this should be the case.</p>	<p>The Applicant agreed to take this point away, noting that as a general point, that the nature of the right being sought under Article 28 are different (being that they are temporary).</p> <p>Having now considered the point in more detail, the Applicant’s position is that the additional wording is not necessary because the opening words of Article 28 already provide an appropriate limitation on the exercise of the temporary possession power; and this drafting is very well precedented, including in the following Orders:</p> <ul style="list-style-type: none"> ▪ Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024; ▪ Awel Y Môr Offshore Wind Farm Order 2023; ▪ Hornsea Four Offshore Wind Farm Order 2023; ▪ East Anglia ONE North Offshore Wind Farm Order 2022; ▪ East Anglia TWO Offshore Wind Farm Order 2022; ▪ Norfolk Vanguard Offshore Wind Farm Order 2022; ▪ Norfolk Boreas Offshore Wind Farm Order 2021; ▪ Hornsea Three Offshore Wind Farm Order 2020; ▪ Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020; ▪ Triton Knoll Electrical System Order 2016; ▪ Dogger Bank Creyke Beck Offshore Wind Farm Order 2015; and ▪ Dogger Bank Teesside A and B Offshore Wind Farm Order 2015.

Agenda Item	ExA Question / Context for discussion	Applicant's Response
4. Next Steps		
4. Next Steps	The ExA requested written submissions of hearing summaries	This document provides the Applicant's summary.
5. Closing		
5. Closing	The ExA closed the hearing	

3 Action Points

Action No	Description	Applicant's comment/where has the action been answered
1	Submit the fuller script for Agenda Item 3.2.1 that provides an overview of the draft Development Consent Order (dDCO). (D3)	Other than in relation to Actions 1 and 5 (which are set out in the appendices below), this information has been provided at the stage within the Hearing that it arose in discussion above.
2	Applicant to provide a note explaining the terms "authorised development" and "authorised project" and provide a signpost to those Articles that contain works that fall under the heading of "any other works". (D3)	
3	Comment on the need for "authorised development" to be used rather than "authorised project" in relation to the commencement of onshore preparation works. (D3)	
4	Consider the need to distinguish between intrusive and non-intrusive environmental surveys and respond in writing. Also, provide greater clarity on what would constitute an intrusive survey and comment on the exclusion of works relating to welfare facilities and footpaths. (D3)	
5	Assess whether the Onshore and Offshore Archaeological Written Schemes of Investigation (WSI) adequately cover the potential for encountering human remains (both onshore and offshore) and whether the processes as set out in the WSIs and Article 19 conflict with each other. (D3)	
13	Consider the insertion of wording regarding consultation with agricultural businesses in the next versions to be submitted of the Soil Management Plan and the Code of Construction Practice. (D3)	
14	Consider the wording of Article 28 of the dDCO in relation to the temporary use of land. (D3)	

4 Appendix 1: Summary of draft DCO: Agenda item 3.2.1

As set out above, in two instances the Applicant’s representatives set out an overview of a topic area and committed to providing its full script to the ExA after the hearing. Full scrips of the responses to these agenda items are provided below in this Appendix 1.

3.2 The draft Development Consent Order	
<p>3.2.1 The ExA asked the Applicant to give an overview of each part of the draft DCO, making clear that the Applicant could outline it now and provide the full script of its submission thereafter</p>	<p>The Order is separated into 7 Parts and a further 22 Schedules.</p> <p>Part one contains the citation, commencement and interpretation – setting out what the Order will be called, the details of when it will come into force will be inserted and finally, importantly, this Part provides a glossary of the defined terms used throughout the rest of the document.</p> <p>Part two, this sets out the principal powers sought under the Development Consent Order. In summary this Order would provide development consent for the Outer Dowsing Offshore Windfarm – which is an offshore renewable energy generating station with an anticipated capacity of around 1.5GW, together with offshore and onshore transmission assets to connect the offshore windfarm to the National Grid. The Order would provide the necessary powers to construct, operate, maintain and decommission the project at the end of its life – with the principal provisions granting these powers set out in Articles 3, 4 and 5.</p> <p>Article 6 addresses the Benefit of the Order, in particular who has the benefit and how can that benefit be transferred or shared. In this case, the benefit of the Order sits with the applicant, GT R4 Limited. Article 6 enables the powers granted in the DCO to be transferred in whole or part or to be shared by others that may be interested in the project. One example of such a transfer which will be required is the transfer of relevant powers, rights and assets relating to the transmission elements of the Project to an Offshore Transmission Owner via a regulated sale process – which will take place post construction and which is required by law to ensure that generation and transmission assets are unbundled and operated by separate entities.</p> <p>The detail of the Works to be carried out (which are contained in Schedule 1) are to be set out in the next agenda item but in summary when the Applicant refers to transmission assets here we are referring to the offshore</p>

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substations, export cables running from these substations via the reactive compensation platforms, coming onshore and running to the onshore substation and then cables running from that substation to the connection point in a substation to be consented and constructed separately by National Grid. In the knowledge that this transfer will have to happen, the DCO is structured so as to make that transfer as clear and straight forward as possible – including, as we’ll come on to, providing for a separate deemed marine licence authorising the transmission assets – so that the owner of transmission assets can receive the benefit of its own marine licence.

Still within Part 2 of the Order, Article 7 disapplies or modifies certain pieces of existing legislation to ensure the activities authorised by the DCO are not inconsistent with and/or do not breach these enactments.

And Article 8 provides a defence to statutory nuisance in respect of noise from the Project.

Part 3 – sets out powers and processes to address the works to and restrictions to be placed on public highways and streets which might be necessary to facilitate the Project. This includes certain powers to carry out street works in the locations specified in Schedule 2 (for example to lay cables under roads); to temporarily stop up (and divert) public rights of way set out in Schedule 3; to temporarily stop up (and divert) other streets set out in Schedule 4 or others with the consent of the street authority; to create new accesses at the locations set out in Schedule 5 or other locations within the Order Limits with approval of the highway authority; to alter the layout of a street (with the consent of the street authority); and to introduce restrictions to control traffic at the locations specified in Schedule 6 and with the consent of the relevant traffic authority.

Part 4 contains some supplemental powers – around discharge of water, site investigations, and rules for removing any human remains discovered.

Part 5 contains a number of important Articles dealing with the compulsory acquisition of land and rights and powers of temporary possession. In particular powers of acquisition of land (Article 20); and rights in land (including by creation of new rights (in Article 22) – with the land in which only new rights can be acquired specified in Schedule 7). The time limits for exercising compulsory acquisition powers are also specified in this Part. This

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part also provides mechanisms to overcome inconsistent private rights and sets out the rules of engagement for any interface with statutory undertakers and their apparatus. Schedule 8 makes some changes to underlying compulsory acquisition legislation to ensure it can be properly applied to compulsory acquisition under the Order.

In addition to compulsory acquisition powers within parts of the Order land, this part of the DCO contains an Article (Article 28) allowing temporary use of land for construction of the authorised project. Article 29 provides for temporary use of land for a period of maintenance of the authorised project. In both instances the inclusion of these powers of temporary possession help to allow for a more proportionate use of the compulsory acquisition powers proper – only exercising temporary possession over some areas; and potentially being able to vest land or rights in land over a more targeted area once as laid positions are understood.

Importantly this Part of the Order also provides mechanisms to compensate for interference with land interests.

The next part is **Part 6** – the purpose of which is to grant deemed marine licences for the elements of the Works which are offshore and involve licensable marine activities in terms of the Marine and Coastal Access Act 2009. The detail of these proposed deemed marine licences are covered under Agenda item 2 but in terms of structure it may be useful to note that there are a number of Deemed Marine Licence in different DCO Schedules:

Schedules

- 10 - Generation assets
- 11- Offshore transmission (which as mentioned previously will likely be transferred in entirety across to the OFTO post Project construction and subsequent OFTO transfer).

There are then 4 Marine Licences under which up to two Artificial Nesting Structures (“**ANS**”) can be constructed. The reason for 4 licences is that the final preferred location is not yet known for the ANS – and so there is some optionality built in – but an allowance for up to two structures in total.

- 12 - Northern artificial nesting structure 1

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- 13 - Northern artificial nesting structure 2
- 14 - Southern artificial nesting structure 1
- 15 - Southern artificial nesting structure 2

And then finally Schedule 16 provides for a without prejudice habitat compensation measure:

- 16 - Biogenic reef creation

Part 7 – under the catch all heading miscellaneous and general – Article 33 is a fairly standard provision overriding the application of incompatible landlord and tenant law; Article 34 is a provision added post application to disapply certain other inconsistent local enactments and byelaws; Article 35 has the effect of allowing certain permitted development rights to apply to the land on which the development is to be situated; and Articles 36 and 37 deal with felling or lopping of trees or shrubs interfering with the development (with Schedule 17 to the Order narrating the important hedgerows that can be removed under Article 36).

Still within Part 7 we then have Article 38 which gives effect to the protective provisions which are or will be included in Schedule 18.

Article 39 – is a dispute resolution provision – and provides that most disputes or differences arising out of the Order are to be settled by arbitration – with more detailed Arbitration rules set out in Schedule 19;

Article 40 (and Schedule 20) deal with the procedure for approvals under the DCO and discharges of Requirements – including providing that approvals should not be unreasonably withheld or delayed;

Article 41 deals with the certification as true copies by the Secretary of State of certain documents (listed in Schedule 21) after the Order has been granted – so that these documents can be referred to later, for example when considering Requirement discharges under the Order;

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Article 42 is a fairly standard provision allowing for notices requiring repair or removal of offshore works that have been abandoned or fallen into decay;

Article 43 is a standard saving provision for Trinity House – ensuring their duties are not interfered with by the Order;

Article 44 provides protections for the Crown’s interests;

Article 45 ensures that compulsory acquisition powers can’t be exercised until appropriate security for compensation is put in place;

Article 46 gives effect to the Habitat Regulations compensation measures proposed in Schedule 22; And finally Article 47 is a boilerplate provision dealing with service of notices.

3.2.2 The ExA asked whether the Applicant had an overview it wished to provide in response to this agenda item (*“The Applicant will be asked to set out the details of the Proposed Development (Schedule 1, Part 1) and ancillary works (Schedule 1, Part 2); provide an overview of the Requirements (Schedule 1, Part 3) and Conditions*

Article 3 of the DCO is the operative provision which grants development consent for the Project. **Schedule 1 Part 1** then sets out the detail of the Works forming a part of that authorisation.

- Work Number 1 is the Offshore Windfarm and cabling between turbines: an offshore generating station with a capacity over 100MW and therefore constituting a Nationally Significant Infrastructure Project. The windfarm will include up to 100 turbines fixed to the seabed.

There then follows a series of Works numbers authorising development associated with the offshore windfarm generating station, namely:

- Work Number 2 which provides for an offshore accommodation platform fixed to the seabed;
- Work Number 3 which provides for:
 - Up to four small offshore transformer substations or up to two large offshore transformer substations fixed to the seabed;

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(Schedules 10, 11, 12, 13, 14, 15 and 16, Part 2). The ExA will then ask questions, seeking responses where appropriate from the Applicant and other Interested Parties in attendance. Interested Parties will also be invited to highlight any points of clarification in relation to Requirements and Conditions in the draft DCO.”)

- Work Number 4 which provides for a network of interlink cables between the substations and platforms;
- Work Number 5 which provides for up to four export cable circuits back to shore;
- Work Number 6 which provides for offshore exit pits for the trenchless technique – which is effectively the drill exit points to create the tunnel for the export cables to come from offshore to onshore;
- Work Number 7 provides for up to two reactive compensation platforms fixed to the seabed;
- Work Number 8 provides for a temporary offshore works area for vessels and wet storage;
- Work Number 9 provides for offshore artificial nesting structures; and
- Work Number 10 provides for the creation of biogenic reef – so 9 and 10 relate to HRA compensation measures
- Work Number 11 is between Mean High and Mean Low Water Springs and in the County of Lincolnshire and consists of landfall connection works of up to four underground cable circuits and up to six cable ducts
- Work Number 12 continues the cable circuits and ducts
- Work number 13 continues the cables and ducts and also provides for drilling launch pits for the trenchless works out to the offshore exit pits; and also provides for other works to facilitate construction – including temporary works and storage areas, and construction of a haul road.
- Work number 14 provides for the transition joint bays where offshore cables are joined on to the onshore cable circuits
- Work number 15 is onshore cable works from the transition joint bay all the way to the Project’s onshore substation. This Works number consists of up to four underground cable circuits; link boxes and joint bays along the way; compounds to launch trenchless drills to go under obstacles or avoid sensitive area; drainage works, storage areas, a haul road and access tracks, bellmouths and footpaths.
- Work number 16 is the Project substation – together with cable works in this area to bring the cables in to the substation from Work number 15 and then back out again.
- Work number 17 then picks up with two underground cable circuits to and connecting in to the National Grid substation – to be consented and constructed by National Grid.

There are then a series of Works numbers that provide for some of the activities around the installation of the main elements described above.

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- Work number 20 provides for permanent accesses to serve landfall and the substation;
- Work number 21 provides for highway widening, passing bays, culverting and drainage works;
- Work number 22 provides for the reinforcement or replacement of a bridge;
- Work number 23 provides for landscaping works;
- Work number 24 and 25 provide for drainage and access

There is then provision for certain necessary or expedient development associated with the specifically scheduled Works and which fall within the scope of the Environmental Statement.

There then follows a series of co-ordinates specifying where the Offshore project is to be located.

Schedule 1 Part 2 then notes some ancillary works that have been subject to Environmental Impact Assessment and are authorised including temporary moorings, marking buoys, and planting of hedgerows and trees.

Schedule 1 Part 3 then narrates a number of limitations and controls on the authorised development in the form of **32 Requirements** which are as follows:

- Requirement 1 – allows 5 years from the date of the Order coming into force for works to commence;
- Requirement 2 – narrates a number of detailed parameters for the offshore windfarm generating station – including limiting turbine dimensions; and foundation types and dimensions.
- Requirement 3 – controls the parameters for the offshore platforms – the substations; the accommodation platform, the artificial nesting structures.
- Requirement 4 – restricts the total number of gravity base structure foundations that can be used and imposes build restrictions within the offshore restricted build area.
- Requirement 5 – limits the total volume of scour protection
- Requirement 6 – restricts the parameters for offshore export cables
- Requirement 7 – prohibits commencement of offshore works until a decommissioning programme in accordance with S105 of the Energy Act 2004 has been submitted for approval

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- Requirement 8 – prohibits commencement of onshore transmission works until a written scheme of the stages of the onshore transmission works have been approved by the planning authority.
- Requirement 9 – prohibits commencement of the substation works until details of the design (in accordance with the design principles document) have been submitted to and approved by the relevant planning authority. This Requirement also ensures that the cable landings are completed using trenchless techniques.
- Requirement 10 – prohibits the onshore transmission works until a landscape management plan for the relevant stage of works has been approved
- Requirement 11 – provides for maintenance of that landscaping
- Requirement 12 – secures an ecological management plan prior to the relevant stage of onshore transmission works
- Requirement 13 – provides for approval of permanent fences etc before the relevant stage of onshore transmission works commence.
- Requirement 14 – specifies that details of temporary enclosures must be included in the code of construction practice.
- Requirement 15 – prohibits commencement of the substation works until an operational drainage management plan has been submitted and approved by the planning authority. This Requirement also provides for an operational emergency flood response plan.
- Requirement 16 – requires a written scheme to deal with contamination of any land to be approved before a relevant stage of works commences
- Requirement 17 – requires a written scheme of investigation before commencing a relevant phase to be approved by the County Council – and that WSI must accord with the outline written scheme of investigation for archaeological works and be informed by archaeological investigations.
- Requirement 18 – mandates that a code of construction practice (which must accord with the outline) for a relevant stage be submitted to and approved by the planning authority. The code of construction practice is wide ranging in its requirements – it must include an air quality management plan; a surface water drainage strategy; a noise and vibration management plan; a health, safety and environment plan; a stakeholder communications plan; a site waste management plan; a flood management and response plan;

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a pollution prevention and emergency incident response plan; an artificial light emissions plan; and a water quality management and mitigation plan.

- Requirement 19 – controls onshore construction hours and traffic movement hours.
- Requirement 20 – prohibits construction of new accesses to a highway until a plan has been approved by the relevant highway authority.
- Requirement 21 – prohibits commencement of an onshore stage until a construction traffic management plan and travel plan have been approved.
- Requirement 22 – requires approval of a public access management plan in respect of any works that would affect a public right of way
- Requirement 23 – requires reinstatement of any land used temporarily for construction within 12 months of completion of the relevant stage of onshore works or such other period agreed.
- Requirement 24 – requires an onshore decommissioning plan to be agreed and implemented after permanent cessation of operation of the onshore transmission works.
- Requirement 25 – specifies operational noise limits – including monitoring Requirements.
- Requirement 26 – requires approval of an operational artificial light emissions management plan.
- Requirement 27 – provides for aviation lighting to be exhibited
- Requirement 28 – requires approvals under Requirements to be given in writing
- Requirement 29 – provides for amendment of approved details under Requirements but only where the changes are immaterial which are unlikely to give rise to any materially new or different environmental effects from those assessed in the Environmental Statement.
- Requirement 30 – requires approval of a skills, supply chain and employment plan.
- Requirement 31 – requires approval of a soil management plan prior to commencing a relevant phase.
- Requirement 32 – is a NATS radar mitigation Requirement – prohibiting any part of a wind turbine generator (other than foundations) to be erected until a primary radar mitigation scheme agreed in advance with NATS (En Route) plc has been submitted and approved by the Secretary of State. It thereafter provides that no part of the turbine is to be erected until the scheme has been implemented. It was noted that following subsequent discussions with NATS (En Route) plc, it had been agreed that the second part of this Requirement (restrictions pending scheme implementation) should only restrict the installation of

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blades on turbines and not the more general erection of turbines and it was confirmed that this change would be made at the next Deadline.

And that brings us to the end of the DCO Requirements.

Deemed Marine Licences.

Schedules 10 and 11 (Generation and transmission asset marine licences)

These Schedules contain the deemed marine licences for the generation assets and the transmission assets respectively and follow the same structure as each other.

Part 1 sets out the licensed marine activities under the relevant licence. The structure within Part 1 is the same in each of the respective Part 1s of each of the deemed marine licences from Schedules 10 to 15 (in respect of the generation assets, the transmission assets and the artificial nesting structures). This structure is also largely followed for Schedule 16.

- Within Part 1, Paragraph 1 (Interpretation) provides interpretation of certain words and phrases used in the licence and contact details for key organisations relevant to the content of the licence. Many of these are identical to those used in Article 2 of the Order.
- Paragraphs 2 to 4 (Details of licensed marine activities) specify the licensable marine activities which are authorised by the relevant licence.
- Paragraph 5 sets out the grid coordinates for those works within the deemed marine licence.
- Paragraph 6 confirms that the deemed marine licence is to remain in force until the scheme has been decommissioned.
- Paragraph 7 confirms that section 72(7) and (8) of the Marine and Coastal Access Act 2009 (relating to the variation, suspension, revocation and transfer of licences) does not apply to a transfer of the deemed marine licences falling within article 6 of the Order (Benefit of the Order).

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- Paragraph 8 confirms that where any condition requires the licensed activities be carried out in accordance with plans approved under the licence, the approved details are taken to include any amendments that may subsequently be approved by the Marine Management Organisation.
- Paragraph 9 notes that any amendments to approved details must be in accordance with the principles and assessments set out in the Environmental Statement.

Part 2 sets out the conditions applying to the relevant licence. The deemed marine licence at Schedule 10 is subject to 23 conditions; and the deemed marine licence in Schedule 11 is subject to 22 conditions.

- Conditions 1 to 3 (Design parameters) specify the design parameters associated with the works comprised within the authorised scheme. This largely replicates Requirements 2 to 6 of Part 3 of Schedule 1 however the licences also include some restrictions which are not included in Schedule 1 of the Order. This is because it is considered more appropriate for these parameters to be controlled within the deemed marine licences due to their nature (in particular parameters associated with deposit volumes such as the volume of cable protection).
- Condition 4 (Maintenance) confirms that the undertaker may maintain the authorised scheme except where the terms of the licence or an agreement made under the licence provides otherwise. No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the Marine Management Organisation, and such approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.
- Condition 5 (Vessels under undertaker's control) obliges the undertaker to issue to operators of vessels under its control a code of conduct for the protection of marine mammals.
- Condition 6 (Extensions of time periods) confirms that any time period given to either the MMO or the undertaker may be extended with the agreement of the other party in writing.
- Condition 7 (Notifications and inspection) provides for a system of supplying copies of the licence to agents and contractors, restricting the use of contractors and vessels to those notified to the MMO, and publicising commencement and progress of the licensed activities.

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- Condition 8 (Aids to navigation) provides for various matters to aid navigation in the vicinity of the authorised scheme.
- Condition 9 (Colouring of structures) makes provision for the colour of structures.
- Condition 10 relates to Aviation safety and requires the undertaker to notify the Defence Infrastructure Organisation regarding the construction of the scheme and its parameters.
- Condition 11 (Chemicals, drilling and debris) sets standards that must be met by the undertaker in respect of the chemicals and other substances that can be used, how they can be stored and transported and where they can be disposed of.
- Condition 12 (Force majeure) provides for the notification of deposits made in an emergency.
- Condition 13 (Pre-construction plans and documentation) provides for the submission of various pre-construction plans and documentation to the MMO for approval prior to the commencement of licenced activities. These plans include: (a) Design plan; (b) Construction programme; (c) monitoring plan; (d) construction method statement; (e) project environmental management plan; (f) marine mammal mitigation protocol; (g) written scheme of archaeological investigation; (h) offshore operation and maintenance plan; and (i) an aids to navigation management plan.
- Condition 14 requires each of the documents for approval under that condition to be submitted for approval at least four months prior to the intended start of construction unless otherwise specified, and that each approved document be complied with.
- Condition 15 (Offshore safety management) provides that no part of the authorised scheme may commence until the MMO has confirmed that the undertaker has taken into account and adequately addressed all MCA recommendations as appropriate contained within MGN654 and its annexes.
- Condition 16 (Reporting of engaged agents, contractors and vessels) requires the undertaker to provide to the MMO details of agents and contractors engaged to carry out the licensed activities.
- Condition 17, 18 and 19 contain provisions relating to pre-construction, construction and post-construction surveys and monitoring respectively, and set out an indicative list of the expected pre-construction surveys.
- Condition 20 (Reporting of impact pile driving) provides that where pile foundations are to be used the undertaker must provide information of the expected location, start and end dates of impact pile driving to the Marine Noise Registry, and thereafter notify the MMO.

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- Condition 21 (Deployment of cable protection) provides that any cable protection to be installed following completion of construction in locations where cable protection was not installed during construction must be deployed within 10 years of completion of construction unless otherwise agreed by the MMO in writing.
- Condition 22 (Southern North Sea Special Area of Conservation Site Integrity Plan (Piling)) provides that before piling activities can commence, a project specific Southern North Sea SAC Site Integrity Plan (which accords with the in principle site integrity plan (PD1-048)) must be submitted to and approved by the MMO in consultation with the relevant statutory nature conservation body. The condition sets out what the SIP must contain and that it must be submitted to the MMO no later than six months prior to the commencement of piling activities.
- Condition 23 of Schedule 10 (Completion of construction), which is not replicated in Schedule 11, requires a close out report to be submitted to the MMO, the Maritime and Coastguard Agency, the UK Hydrographic Office and the relevant statutory nature conservation body to confirm the date of completion of construction and final details of the wind turbine generators installed. The condition prevents any further construction activities from being undertaken under the generation asset marine licence following completion of construction.

Schedules 12-15 (ANS deemed marine licences)

Schedules 12 to 15, which contain the deemed marine licences for up to two ANSs in two areas, follow the same structure as that set out above for Schedules 10-11.

Part 1 is as set out above in relation to Schedules 10-11 and so, for brevity, is not repeated.

Part 2 sets out the conditions applying to the relevant licence. Each of the deemed marine licences at Schedules 12-15 is subject to 15 conditions.

- Conditions 1 to 10 in Schedules 12 to 15 broadly follow the same topics as conditions 1 to 12 in Schedules 10 and 11, albeit the numbering differs.
- Condition 11 (Pre-construction plans and documentation) provides for the submission for approval, before the commencement of licensed activities, of various plans to the MMO. This is similar to condition 13 of

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the DMLs at Schedules 10 and 11 relating to the generation and transmission assets respectively, albeit with a reduced scope given the lower level of complexity envisaged in the construction of the artificial nesting structures when compared with the generation and transmission assets.

- Condition 12 requires each of the documents for approval under condition 11 to be submitted for approval at least three months prior to the intended start of construction, and that each approved document be complied with.
- Conditions 13, 14 and 15 of the ANS deemed marine licences reflect the terms of conditions 17, 20 and 22 of the generation and transmission asset DMLs.

Schedule 16 (biogenic reef deemed marine licences)

Schedule 16 sets out the deemed marine licence for the biogenic reef creation proposed in Work No. 10 (creation of biogenic reef within the Inner Dowsing Race Bank and North Ridge Special Area of Conservation). The structure of Schedule 16 is as follows:

As with the other deemed marine licences, **Part 1** sets out the licensed marine activities under the licence.

Part 2 sets out the conditions applying to the licence. The deemed marine licence at Schedule 16 is subject to 10 conditions.

- Conditions 1-7 and 10 of the biogenic reef deemed marine licence broadly reflect the terms of conditions 1, 4, 5, 6, 7, 11, 12 and 16 in the generation and transmission assets marine licences in Schedules 10 and 11.
- Condition 8 (Pre-construction plans and documentation) provides for the submission for approval, before the commencement of licensed activities, of a plan showing the proposed location of the biogenic reef, to ensure that the licensed activities conform with the description of the works and the design parameters specified within the conditions. It also provides for submission for approval of a construction programme, a construction method statement and a written scheme of archaeological investigation.

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- Condition 9 requires each of the documents for approval under condition 8 to be submitted for approval at least three months prior to the intended start of construction, and that each approved document be complied with.

5 Appendix 2: Applicant's position on Article 19

At Issue Specific Hearing 1, the ExA questioned the need for Article 19 of the draft DCO, and directed the Applicant to the decision of the Secretary of State on the Longfield Solar Farm Orde 2023r, in which the Secretary of State considered a similar article was deemed not to be required because *“There are no known burial grounds within the Order limits so the Secretary of State considers this article to be unnecessary. Provision for any human remains should be included in the written scheme of investigation, as required by paragraph 12 of Schedule 2.”*

As explained in the Explanatory Memorandum (document 3.2, version 4), the purpose of this article is to enable the undertaker to remove human remains from the Order limits, and provides a process for notification and identification of the human remains as well as their re-internment or cremation. There are different procedures in place for remains which were interred more than 100 years ago, and those which were interred more recently than that. Without such an article in place, in the unlikely event that human remains are discovered during the construction of the project, this could cause unnecessary delays to the Project.

The issue of the necessity of such an article recently came up in the Examination of the Immingham Green Energy Terminal (IGET) DCO and the Applicant in that case was also directed to instances where the Secretary of State removed such an article. Given the similarity between the issues raised in this Examination and the IGET Examination, the Applicant refers to and adopts the response provided by IGET.

In IGET's Summary of Issue Specific Hearing 5 (IGET Examination Library Reference **REP3-071**), the Applicant addressed this need and the precedent referred to by the ExA:

“Article 21

The Explanatory Memorandum [REP1-005] at page 56, paragraph 8.48 explains that in the absence of a provision such as at Article 21 it would be necessary for the Applicant to meet the requirements of a number of disparate other regimes regulating the removal of human remains, in the event that any are found during the works.

The EIA and land referencing processes undertaken for the project have not flagged up any particular likelihood of human remains. Even so, human remains sometimes do turn up where they have not been expected. For example, at Chambers Wharf during the Thames Tideway Tunnel development, the remains of a man were unearthed on the banks of the Thames. The body was not expected. However, given that the Thames has been the site of human occupation and inhabitation for hundreds of years, it is not a surprise that this could

happen from time to time. The Applicant provides a newspaper article in relation to the human remains discovery at Chambers Wharf at Appendix 1.

Such situations can be characterised as low probability but high impact events for the purposes of construction, and thus a risk. Once a body is discovered, the statutory processes must be followed to deal with it. Those processes can give rise to delay. So Article 21 is in place to allow for a clear, consolidated, efficient and acceptable process for handling the removal of remains should that prove necessary.

In the unlikely event that human remains are found, the Article 21 process is an acceptable way of dealing with them. There has been no suggestion either in this examination or in any others the Applicant has looked at that it has any obvious shortcomings. If no human remains are found, the process will simply not be used.

Like many provisions in DCOs Article 21's inclusion is intended to guard against unnecessary delay, difficulty and obstruction to implementation in the event that something occurs that may not be expected at the time the DCO is made but, nevertheless, remains a realistic possibility. There is therefore potentially significant public interest benefit from its inclusion, and no public interest harm. No person will benefit if it is removed and no public interest benefit will be realised by its removal.

The Applicant has identified two recent Secretary of State decision letters where provision akin to Article 21 was removed (Hynet Carbon Dioxide Pipeline Order 2024 and National Grid (Yorkshire Green Energy Enablement Project) DCO 2024). The Applicant, however, considers that those two decision letters do not provide any real assistance for the purposes of this examination and are of very limited utility as precedents.

In neither case was this matter considered in the Examiner's Report. That appears to reflect the fact that the need for inclusion of the provision was not explored or debated during the examination or subject to consideration by the ExA in either case. The Applicant has not identified any attempt to solicit the views and representations of the Applicants or Interested Parties as to whether the provision ought to be retained during the post-examination stage for both projects either.

The reasoning in both Secretary of State decision letters is extremely brief. It does not engage with the points that the Applicant has made here in ISH5 as to why Article 21 should be included. It may well be that if the Applicants in those two cases had been given the opportunity to explain why they wanted their equivalent Articles to be included they would have raised similar arguments, but it seems they were not given that chance.

The Applicant concurs with the submissions made by IGET.

The Longfield Solar Farm Order 2023 decision similarly does not provide any real assistance for the purpose of this examination. As was the case in the Carbon Dioxide Pipeline Order 2024 and National Grid (Yorkshire Green Energy Enablement Project) DCO 2024 decisions, the matter was not considered in the Examining Authority's report, and the Applicant cannot find any evidence that the Longfield Solar Farm applicant was given an opportunity to comment on the removal of the article prior to it being so removed. In addition, the reasoning provided by the Secretary of State for removing the article, as set out above, is similarly brief to that which was found in the above-noted Orders.

The IGET DCO application is currently at the decision stage, with a decision currently expected from the Secretary of State in February 2025. As a result of the submission made by IGET, this matter will now be subject to consideration by the Secretary of State with the benefit of detailed arguments for why the power is necessary to guard against unnecessary delay, difficulty and obstruction to implementation in the event that something occurs that may not be expected, which the Applicant considers very much apply to this DCO. Similarly the Applicant notes that the Secretary of State will have the opportunity to consider the arguments that there would be no public harm in including such an article which may eventually not be used if no remains are encountered, but there is significant public benefit to having the power available should unexpected remains be discovered – and again the Applicant considers that equivalent arguments apply to this DCO.

As such, the Applicant maintains that Article 19 is necessary, and notes that during the course of this Examination, the position of the Secretary of State on this matter, having considered the arguments above, is likely to become clearer.

The Applicant notes the comments from the ExA that the Outline Onshore Written Scheme of Investigation (WSI) for Archaeological Works (OWSI) (PD1-052) appeared to contradict the procedure set out in Article 19 of the draft DCO. The Applicant has reviewed this and has updated the OWSI to align with the procedure set out in Article 19.