



AQUIND Limited

AQUIND INTERCONNECTOR

Consultation Report – Appendix 1.3A
Response from MMO regarding Section 81(5)
Marine and Coastal Access Act 2009

The Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations
2009 – Regulation 5(2)(q)

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Sarah Lister

From: Qureshi, Mark (MMO) <Mark.Qureshi@marinemanagement.org.uk>
Sent: 12 July 2018 10:36
To: Sarah Lister
Cc: Pennington, Abbey (MMO); Ross Hodson; Ford, Jennifer (MMO)
Subject: RE: Aquind Marine Licence / deemed marine licence requirements eia/2018/00011

Follow Up Flag: Follow up
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Dear Sarah,

Regarding your email of 10 July, please find my response below to the matters you raised. (Also, regarding any meeting next month, just to let you know I'll be on leave from Monday 6 August for two weeks, returning on the 20th, but with limited availability towards the end of that week and the following week).

I would caveat that the advice below is based on the information provided in the Aquind Scoping Report (EIA/2018/00011) and other supporting information submitted. The MMO will confirm all licensable activities related to the project once a fully submitted marine licence application or Development Consent Order (DCO) application is received. Any marine licence application or DCO application must include details of all proposed activities within the UK Marine Area.

It remains the developer's responsibility to satisfy themselves as to whether a marine licence is required for an activity.

Exempt Submarine cables

Section 81 (5) of the Marine and Coastal Access Act 2009 (MCAA) states the following:

81 (5) "For the purposes of this section a submarine cable is "exempt" unless it is a cable constructed or used in connection with any of the following—
(a) the exploration of the UK sector of the continental shelf;
(b) the exploitation of the natural resources of that sector;
(c) the operations of artificial islands, installations and structures under the jurisdiction of the United Kingdom;
(d) the prevention, reduction or control of pollution from pipelines."

I can confirm that the MMO considers that the proposed Aquind Interconnector submarine cable, as described in the Aquind Scoping Report, may be considered as an exempt submarine cable, as defined in section 81 (5) of MCAA.

Laying of exempt Submarine cables (inshore and offshore)

Section 81 (1) & (2) of MCAA states:

81 Submarine cables on the continental shelf

(1) Nothing in this Part applies to anything done in the course of laying or maintaining an offshore stretch of exempt submarine cable.
(2) Where subsection (1) has effect in relation to part (but not the whole) of an exempt submarine cable—
(a) the appropriate licensing authority must grant any application made to it for a marine licence for the carrying on of a licensable marine activity in the course of laying any inshore stretch of the cable, and
(b) nothing in this Part applies to anything done in the course of maintaining any inshore stretch of the cable.

Section 81 (1) confirms that the laying of an exempt submarine cable beyond the 12 nautical mile limit (offshore), does not require a marine licence. If the Aquind Submarine cable is considered as an exempt cable (as defined in

Section 81 (5) of MCAA), a marine licence will not be required for the laying of the Aquind cable beyond the 12 nautical mile limit.

Section 81 (2) (a) confirms that a marine licence must be granted for the laying of an exempt cable within the 12 nautical mile limit (inshore).

Specific Cable laying activities (inshore and offshore)

The MMO considers that the following activities, as described in section 3.1.6 of the Aquind Scoping Report, may be considered as cable-laying activities if carried on in relation to the laying of an exempt cable (as defined in Section 81 (5) of MCAA):

-) clearance dredging and side casting,
-) the use of rock and mattresses to fill gulleys and reduce freespans.

As the act of laying an exempt cable beyond the 12 nautical mile limit (offshore) does not require a marine licence, I can confirm that these activities would not require a marine licence beyond the 12 nautical mile limit, when carried on in relation to the laying of an exempt cable (as defined in Section 81 (5) of MCAA). A marine licence is required for the above activities if carried on within the 12 nautical mile limit.

Maintenance activities

Section 81 (1) and (2)(b) of MCAA confirms that a marine licence is not required for maintaining an exempt cable either within or beyond the 12 nautical mile limit, i.e. inshore and offshore. If the Aquind Submarine cable is considered as an exempt cable (as defined in Section 81 (5) of MCAA), I can confirm that a marine licence would not be required for its' maintenance, either within or beyond the 12 nautical mile limit.

Maintenance activities can include:

-) the removal and replacement of defective cable sections,
-) removal of sediment to undertake repairs,
-) the removal / replacement of cable protection to access the cable.

I would advise however that you should seek advice from the MMO on a proposed maintenance activity method, and submit a supporting detailed method statement, so that we can provide advice as to whether it is exempt from requiring a marine licence. It remains the developer's responsibility to satisfy themselves as to whether a marine licence is required for an activity.

Decommissioning

Section 81 of MCAA relates only to the laying and maintenance of an exempt cable, and I can therefore confirm that decommissioning of a cable, both within and beyond the 12 nautical mile limit, requires a marine licence.

NSIPs and marine licensable activities

I can confirm that the provisions set out in Part 4 (Marine Licensing) of MCAA still apply when considering whether an activity is a marine licensable activity, regardless as to whether it is considered under the Planning Act 2008 as a Nationally Significant Infrastructure Project (NSIP). Specifically, the provisions set out in sections 66 and 81 of MCAA will still apply if the Aquind project is determined by the relevant Secretary of State to be an NSIP. Any DCO application should include full details of all proposed activities in the UK Marine Area.

I can also confirm that a deemed marine licence functions exactly as a marine licence, and that the MMO is responsible for enforcing, post-consent monitoring, varying, suspending, and revoking any deemed marine licence as part of a DCO.

Further information regarding NSIPs and the MMO can be found here:

<https://www.gov.uk/government/collections/marine-licensing-nationally-significant-infrastructure-projects>

Finally, thank you for confirming that the EIA will consider impacts both within and beyond the 12 nautical mile limit.

Please don't hesitate to contact me if you'd like to discuss this email.

Regards

Mark

Mark Qureshi | Marine Licensing Case Officer | Her Majesty's Government – Marine Management Organisation.

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From: Qureshi, Mark (MMO)

Sent: 11 July 2018 08:58

To: 'Sarah Lister' <sarahl@naturalpower.com>

Cc: Pennington, Abbey (MMO) <Abbey.Pennington@marinemanagement.org.uk>; Ross Hodson <rossho@naturalpower.com>; Ford, Jennifer (MMO) <Jennifer.Ford@marinemanagement.org.uk>

Subject: RE: Aquind Marine Licence / deemed marine licence requirements

Dear Sarah,

Thanks for your email, I'm looking forward to meeting Ross again, and working with yourselves.

I'll be drafting a response to the question raised in your email, and will be back in touch in due course.

Regards

Mark

Mark Qureshi | Marine Licensing Case Officer | Her Majesty's Government – Marine Management Organisation.

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