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Our ref
18857/2461/31049436
Your ref
EN020022
Date
14 October 2024

By email

Dear Secretary of State

AQUIND Interconnector - Redetermination

1. We are writing to you on behalf of our client AQUIND Limited ("**AQUIND**") in connection with the redetermination of the application for the AQUIND Interconnector Development Consent Order (the "**Application**"), in response to the open submissions of the Ministry of Defence ("**MoD**") submitted to the Secretary of State ("**SoS**") on 23 August 2024, and comprising:
 - a. a statement by James Muncie, Deputy Director, Directorate of Economic Security and Statecraft for the MOD, dated 22 August 2024; and
 - b. a letter from Captain Lee McLocklan dated 22 August 2024.
2. In accordance with the process provided for by the SoS, AQUIND has the opportunity to respond in writing to the open representations of the MoD. In parallel, Department officials are required to consider whether the MoD's closed submissions raise matters that constitute potentially material planning considerations that may be relevant to determination of the Application. Officials are also to consider whether the tests set out in s.95A(1) of the Planning Act 2008 ("**2008 Act**") are met in relation to any closed submissions.
3. Where Department officials identify those tests are satisfied and that the closed submissions raise potentially material planning considerations relevant to the determination of the application and which may affect the decision, the Department will request the Attorney General ("**AG**") to appoint a representative for the Applicant. Whilst a further process beyond this has been provided for by the SoS, it is not necessary to explain this for the purposes of this representation.
4. AQUIND was informed on 19 September 2024 that Department officials consider that the MoD's closed representations constitute potentially material planning considerations that may be relevant to the determination of the Application. Officials also consider the tests set out in s.95A(1) of the 2008 Act are met in relation to confidentiality and that the MoD's representations must remain closed.

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5. At the time of writing no deadline has been announced for the submission of a response to the MoD's open submissions. Whilst the communication of that deadline is awaited, in the interest of avoiding delay in respect of the consideration of the MoD's new representations in relation to the Application and to the decision being taken on whether to grant development consent for AQUIND Interconnector in accordance with the clear recommendation of the Examining Authority ("**ExA**"), we provide AQUIND's response to the MoD's open submissions.

Description of the Proposed Development and activities in the marine environment

6. James Muncie provides a summary of the components of the Proposed Development at paragraph 5 of his statement. We do not repeat this here. We do however note for completeness that during the determination of the Application it has been confirmed by AQUIND that the use of the fibre optic cables for commercial telecommunications purposes has been removed from the Order¹, and therefore any such use of the spare fibre optic cables would not be permitted by any Order made for the Proposed Development.
7. Whilst paragraph 5 of James Muncie's statement describes what the Proposed Development is comprised of, it does not provide any detail regarding, or evidence of an understanding of, how the Proposed Development would be constructed and operated in the marine environment. It is not evident which documents, if any, submitted by AQUIND during the Application process have been reviewed for the purpose of the MoD's submission. Noting that the reasons for the MoD concerns must be planning related (discussed further below), a clear understanding of this is critical for any person to properly assess the potential for impacts on marine users, including on military activities, and a summary is therefore provided below.
8. This summary is not intended to be an exhaustive description of the Proposed Development. It also does not change or substitute the description of the marine elements of the Proposed Development within the Application materials, as all the required information has already been provided in the Environmental Statement ("**ES**"). However, it is considered helpful to the SoS to re-iterate some key points.
9. The description of the works for the installation of marine cables is given in ES Chapter 3: Description of the Proposed Development [[APP-118](#)] ("**Chapter 3**"), Section 3.5. Such works will include:
- exploratory surveys (all have been completed, but some confirmatory surveys may be required before installation which are provided for within the deemed marine licence contained within the draft DCO [[REP9-003](#)]) – paragraph 3.5.4 of Chapter 3 [[APP-118](#)];
 - pre-installation surveys (a ground condition and a UXO survey by an appointed contractor) – paragraphs 3.5.4.4 and 3.5.5.2 of Chapter 3 [[APP-118](#)];
 - route preparation including debris and seabed feature clearance – paragraph 3.5.5.1 of Chapter 3 [[APP-118](#)], Table 2 of Appendix 3.3 to Chapter 3 [[APP-357](#)] and Figure 3.5 [[APP-150](#)];
 - construction of the Landfall – to be constructed via horizontal directional drilling (HDD) – section 3.5.8 of Chapter 3 [[APP-118](#)];

¹ See Section 7 of <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN020022/EN020022-004884-Applicant's%20Response%20to%20RfI%20-%20FINAL.pdf> and paragraph 1(8) of Schedule 2 of <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN020022/EN020022-004886-3.1%20Draft%20Development%20Consent%20Order%20-%20Revision%2012%20-%20Track%20Changes%20Version.pdf> which confirm this position.



- e. construction of the Inshore (near shore) Marine Cable Corridor – the installation of marine cables in shallow waters (less than 10 – 15m) – paragraphs 3.5.6.8 – 3.5.6.10 of Chapter 3 [\[APP-118\]](#); and
 - f. the Inshore and Offshore Marine Cable Corridor – the installation of marine cables in deep water (water depth greater than 10 – 15m) – paragraphs 3.5.6.4 to 3.5.6.7 of Chapter 3 [\[APP-118\]](#).
10. The type of activity described above has been regularly undertaken in the English Channel, including in proximity to HMNB Portsmouth. Amongst others it was undertaken for the IFA2 Interconnector. No concerns were raised in respect of those activities by the MoD.
 11. As mentioned above, the commercial use of the fibre optic cables has been agreed to be excluded from the scope of the Proposed Development. This has no material impact on the outside physical dimensions of the required cables or methods of installing them since that is determined by the physical properties of the HVDC cables.
 12. The Project will consist of four 320 kV HVDC marine cables which are to be installed as two bundled pairs, each with a fibre optic cable for monitoring purposes associated with their operation. The two bundled marine cable pairs are expected to be installed with a typical separation distance of 50 metres (paragraph 3.5.6.20 of Chapter 3 [\[APP-118\]](#)). Each marine cable will be up to 109 kilometres in length to the UK exclusive economic zone boundary with France.
 13. Burial depths for the marine cables have been informed by the results of the geotechnical survey and information from the Cable Burial Risk Assessment (CBRA). Preliminary estimates suggest a target burial depth between 1.0 m and 3.0 m (paragraph 3.5.6.15 of Chapter 3 [\[APP-118\]](#)). Where the target burial depth is not achieved, non-burial protection, for example rock placement, mattresses, grout/rock bags or tubular protection, will be added to protect against vessel anchors, if deemed necessary (paragraphs 3.5.6.17 – 3.5.6.18, Table 3.2, paragraphs 3.5.6.21 – 3.5.6.25, Table 3.3 of Chapter 3 [\[APP-118\]](#)).
 14. The marine cables will be installed in sections, which will be connected via cable joints. It is expected that between 8 – 12 in-line joints per HVDC circuit will be required (16 – 24 joints in total at 4 – 6 locations) (see paragraphs 3.5.6.27 - 3.5.6.30 of Chapter 3 [\[APP-118\]](#)). The joints are also placed in the same pre-dredged trench and/or protected by placement of rock or other protection measures. If repairs of the marine cables are required, the repairs can be done using an omega joint.
 15. Table 3.4 of Chapter 3 [\[APP-118\]](#) contains the types and indicative number of vessels that would participate in the seabed preparation, cable installation and the Landfall HDD and an indicative number of their return trips.
 16. Activities associated with construction, operation and maintenance of the marine cables will be subject to the industry standard controls which are presented in sections 13.6 and 13.8 of ES Chapter 13: Shipping, Navigation and Other Marine Users [\[APP-128\]](#).
 17. The Landfall of the marine cables will be located off the coast at Eastney and will be constructed using HDD methods (see section 3.5.8 of Chapter 3 [\[APP-118\]](#) and Appendix 3.4 [\[APP-358\]](#)). Transition Joint Bays (TJBs) and associated equipment will be located above the Mean High Water Springs (MHWS) while the HDD exit/entry point within the marine environment is anticipated to be located between Kilometre Point (KP) 1 and 1.6 (approximately 0.5 nmi and 0.9 nmi from the start of the Marine Cable Corridor).
 18. The HDD is anticipated to comprise four bores, each approximately 1,400 to 2,000 m in length. The minimum and maximum depths will typically be up to 20 m, depending upon the length of the bore and the local ground conditions, with bores separated up to 20 m apart. The works for



the installation of the Landfall are the closest marine works to HMNB Portsmouth. The Marine Cable Corridor in that area is close to the shore and outside of any major shipping routes [APP-148]. It is also located in very shallow waters (3 m). The marine part of the Landfall works will be performed most likely using a jack up barge fixed at the exit of the boreholes drilled from land (see section 3.5.8 of Chapter 3 [APP-118]). The overall HDD works are anticipated to take approximately 44 weeks.

19. The total marine cable installation process (including seabed preparation and HDD works) for both cable circuits is anticipated to be completed over a period of approximately two and a half years. Cable installation operations will typically be limited to a 6-month window between April and September, however this may extend into the winter seasons due to developments in technology and operations, dependent on a number of conditions and subject to interactions with activities of other marine users and other limitations. Operations are expected to take place across 24 hours of the day, unless halted by weather or other disruptions.
20. Plate 6.4 of ES Chapter 6: Physical Processes [APP-121] demonstrates that the water depth within the first eight kilometres, i.e., the area closest the Landfall and within which those works would be undertaken, is a maximum depth of 10 m. No naval activities are likely to take place near shore given its shallow profile. The installation is likely to be undertaken by an anchored barge and to be slower than the installation in deeper water, but fits in the overall indicative duration of installation within the nearshore Marine Cable Corridor (up to the 12 nmi limit). The duration of installation in the near shore is estimated as either within 14 weeks (per cable circuit individually) or 25 weeks (for both cable circuits if installed in parallel) (see Appendix 3.8 [APP-362]). The installation will be preceded by the seabed clearance activities, but the shallow-water area (to KP 8.6) is not expected to require major seabed clearance efforts, only boulder clearance towards the end of that section (Appendix 3.3 [APP-357]; Figure 3.5, Sheet 1 [APP-150]).
21. Section 1.3.1 of Appendix 3.4 [APP-358] provides that Cable Lay Vessels can work without restriction to approximately KP 8.1 at all states of the tide, this is where water depth starts becoming greater than 10 m.
22. In deep waters (a depth of greater than 10 m) the assumed cable installation rate is 100 m per hour, as is detailed at section 15.2 of the Navigation Risk Assessment [APP-393]. Assuming 24-hour operation, the daily installation rate can be 2.4 km per circuit. This means, for instance, that the marine cable can be installed in the short overlapping stretch with the military Danger Area D037 over a course of approximately 1 day per circuit.
23. With regard to operation, the marine cables are designed to not require regular maintenance. Maintenance may be required in the rare event of a mechanical or electrical failure of components within the cables, exposure or damages to cables as a result of fishing activities and/or vessel anchoring or exposure of the cables due to changes of the seabed conditions (see Section 3.5.9 of Chapter 3 [APP-118] and Appendix 3.4 [APP-358]).
24. The procedure for repairs of the marine cables is detailed in section 1.3.7 of Appendix 3.4 [APP-358] and also Table 12.7 of ES Chapter 12: Commercial Fisheries [APP-127]. According to International Council on Large Electric Systems (CIGRE) statistics, the submarine cable fault average repair duration is 60 days². However recent experience of cable repairs show that such activity can typically be completed in a month³. The actual cable jointing and handling of

2

[REDACTED]



- the joint is expected to take 6 to 8 days. The overall length of the repairs would depend on the scale of the fault or damage.
25. The Marine Cable Route and burial depths and/or non-burial protection will be designed to minimise the requirement for regular inspection surveys. However, further surveys may be required throughout the operational lifetime of the Proposed Development. It is anticipated that inspection surveys would be undertaken every 6 – 12 months for the first 2 – 5 years, then reducing in frequency to once every 1 – 5 years for the remaining operational lifetime of the Project, with further details on survey requirements within Appendix 3.4 to Chapter 3 [APP-358]. There may be other survey requirements relating to cable crossing agreements and any requirements of relevant Port Authorities.
26. To ensure a robust assessment, the following assumptions were made for the purposes of the impact assessment on risks to navigation, discussed further below:
- a. There could be up to eight main Cable Laying Vessels and up to 24 support vessels involved in cable installation works, however all vessels will not be operating in the same area at the same time. Vessels involved in Landfall works (exit/entry point between KP 1.0 and KP 1.6) include up to seven support vessels and one jack up vessel or barge.
 - b. At the seaward Landing HDD exit between KP 1 and 1.6 – one jack-up vessel or barge and up to seven support vessels would be required.
 - c. The cables will not be left exposed for more than 1-2 months during installation.
 - d. Vessels (in particular, dredgers) will not anchor directly over the cables once installed.
 - e. Worst case scenarios are 30 months for route preparation (including disposal), two years for cable installation and 44 weeks for Landfall installation. Activities associated with each of those workstreams would be likely to be undertaken in parallel to one another.
 - f. Worst case scenario for cable repair is one repair every 10-12 years.
27. At the time of decommissioning, the options for decommissioning the cable will be evaluated and could include consideration of leaving the marine cable in situ, removal of the entire marine cable or removal of sections of the marine cable. These options will be evaluated against the environmental implications, safe navigability of the area for other sea users and liability risks and will consider the most current and/or relevant decommissioning guidance that is available at the time. In addition, a decommissioning plan would be agreed with the Crown Estate. If the removal of the cable is determined as the most suitable approach, then it is anticipated that the size, type and number of vessels used in the retrieval of the cables would be similar to that used during installation. For more information see section 1.3.8 of Appendix 3.4 [APP-358].
28. The deemed marine licence contained within the draft DCO [REP9-003] provides for a number of requirements which, inter alia, secure the interests of various marine stakeholders. Specifically:
- a. Condition 2 – Notifications and Inspections – provides for:
 - i. a procedure of supplying copies of the licence to agents and contractors;
 - ii. restricting the carrying out of licensed activities to contractors and vessels notified to the MMO;
 - iii. publicising commencement of the licenced activities and their continuing delivery through notices to the MMO (including the local office), mariners, Kingfisher Information Service of Seafish, the UK Hydrographic Office (UKHO) and HM Coastguard;



- iv. notifying the MMO, MCA, Trinity House, Kingfisher Information Service, and UKHO of any damage to, or destruction or decay of, any part of the Proposed Development in the marine environment; and
 - v. issuing notices to mariners and Kingfisher Information Service of the location and extent of any exposure of the HVDC Cables on the seabed and providing copies of such notices to the MMO, the MCA, Trinity House and the UKHO and requirements to lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House in those circumstances.
- b. Condition 4 – Pre-construction plans and documentation – requires that licensed activities must not commence until various matters have been approved by the MMO in accordance with which the Proposed Development must then be carried out, including the design plan for the works, a construction programme and a cable burial and installation plan which, inter alia, includes details of:
- i. marine HVDC cable installation methodology;
 - ii. technical specification of marine HVDC cables, including the fibre optic cables which are an integral part of those for cable monitoring purposes;
 - iii. proposals for monitoring the marine HVDC cables including cable protection during the operation of the Proposed Development;
 - iv. advisory safe passing distances for vessels around construction sites;
 - v. the name and function of any agent or contractor appointed to engage in the licensed activities vessels and vessel transit corridors and a completed Hydrographic Note H102 listing the vessels to be used in relation to the licensed activities; and
 - vi. codes of conduct for vessel operators;
- c. Condition 7 – Aids to Navigation – which provides that any vessels used during licensed activities must display signals per the standard marking schedule. The undertaker must exhibit navigation aids as directed by Trinity House throughout construction, operation, and decommissioning.
- d. Condition 11 – Cable burial management plan – which requires that following the completion of construction of the Proposed Development the undertaker will submit a cable burial management plan including results of the post installation surveys to the MMO for its approval; and
- e. Condition 12 – Maintenance of the authorised development – which provides for the maintenance of the cables and processes for notifications of work in the course of so doing.
29. The framework of controls agreed with the MMO and other stakeholders during the examination of the Application and secured through the marine licence will ensure that all activities in the marine environment to construct and maintain the Proposed Development are transparent, environmentally regulated and safe for navigation, while protecting marine stakeholders' interests. For more information see schedule 15 to the draft DCO [\[REP9-003\]](#) or paragraphs 12.20 – 12.42 of the Explanatory Memorandum [\[REP8-006\]](#).
- Application assessment and the MoD's position on the Application**
30. The Proposed Development, including its construction and operation, has been subject to a thorough environmental impact assessment, the findings of which are reported in the ES submitted in support of the Application and which has since been updated during the examination and determination of the Application.



31. Amongst other matters, the ES considered the potential for likely significant effects on shipping, navigation and other marine users, at Chapter 13 [APP-128]. This assessment chapter of the ES drew much of its findings from the Navigation Risk Assessment [APP-393], which formed Appendix 13.1 to the ES. Both of those documents explain in detail the baseline marine environment in which the marine cable corridor for the Application is proposed, including the identification of other projects and activities which were being undertaken in proximity to the Proposed Development and, by reason of its location, HMNB Portsmouth.
32. The assessment reached very clear conclusions on the potential for impacts to relevant receptors, including that, with the application of mitigation, all impacts during construction, operation and decommissioning (including repair and maintenance) were assessed to be "tolerable or broadly acceptable" and on this basis would be not significant⁴.
33. With regard to the potential for disruption to military exercises specifically, paragraphs 13.6.1.23 – 13.6.1.26 and 13.6.2.44 – 13.6.2.45 of Chapter 13 to the ES [APP-128] provide the assessment, with the conclusion being reached in relation to construction that the *"frequency of this impact is considered to be remote and the severity minor, resulting in an overall ranking of broadly acceptable (low risk; not significant), taking into account all embedded mitigation."* (paragraph 13.6.1.26), and in relation to operation that *"[d]isruption to military activities association with maintenance works or surveys is expected to be lesser than during construction, due to the temporary nature of the works"* (13.6.2.44).
34. More detail in this respect is provided in the Navigation Risk Assessment [APP-393], which identifies that (page 117):
- a. *"Two designated military exercise and firing practice areas intersect the Marine Cable Corridor. These areas are operated under a clear range procedure, that is, no firing will take place unless the area is considered to be clear of all shipping. Therefore, no firing is expected to be undertaken while there is construction work ongoing within the area."*
 - b. *"As the port of Portsmouth is a significant military base there may also be local military operations in the vicinity of the cable Landfall. However, consultation revealed there is little exercise activity carried out in proximity to the Marine Cable Corridor due to the large number of vessels and other activities (i.e. fishing and recreational) within the area.";* and
 - c. *"Assuming embedded mitigation measures (e.g. circulation of information) are in place preceding any installation works, it is likely the installation work timetable will be taken into consideration by the MoD if any exercises were scheduled to take place within the area. Liaison with QHM Portsmouth will also aid in ensuring the MoD are fully aware of the installation timetable."*
35. In agreement with that assessment, the Defence Infrastructure Organisation, in their capacity as the safeguarding department of the MoD, submitted a response at Deadline 1 of the examination of the Application to a written question from the ExA [REP1-202] in relation to safeguarding which identified the following:
- a. *"We have previously made representations in response to a Scoping Opinion request and a Section 42 consultation in relation to this project and the safeguarding of offshore military assets and interests."*
 - b. *"As previously advised, the offshore cable route will intersect military Danger Area D037 however we have no safeguarding concerns with the cable route passing through this danger area."*

⁴ See Section 13.9 of Chapter 13 to the ES and 14.7 of the Navigation Risk Assessment, which discuss the residual effects of the Project.



- c. *"We have no other offshore safeguarding concerns with this proposal".*
 - d. *"AQUIND interconnector cable route runs clear of the main navigation channels used for deploying warships out of HM Naval Base Portsmouth and only a small section of the cable route falls within the port limits. It is therefore unlikely that the route will need to be cleared should a warship need to be deployed. Information relating to maintenance and constriction [sic] works will be circulated by the project to the Queens Harbour Master (QHM) at Portsmouth and via Notices to Mariners so the QHM and Navy will be notified."*
36. This response by the Defence Infrastructure Organisation was consistent with their position expressed at the pre-application consultation stage issued on 13 May 2019, which confirmed *"The offshore cable route will intersect military Danger Area D037 however we have no safeguarding concerns with the cable route passing through this danger area. We have no other offshore safeguarding concerns with this proposal however historic explosive munitions disposal sites and unexploded ordnance (UXO) should be taken into account"*. A copy of that response, which is referred to in the consultation report submitted in connection with the Application [APP-025] at paragraph 11.9.17, is located at Appendix 1 to this Submission.
37. AQUIND also further addressed the potential for impacts resulting from the Proposed Development on military vessels and urgent military need, through providing information on military vessels transiting close to the Marine Cable Corridor in order to identify the paths taken by these vessels in the vicinity of it at Section 8 of the ES Addendum submitted during the course of the examination of the Application on 6th October 2020 [REP1-139]. The assessment of this further information concluded that *"there is a reasonable separation and distance between the Proposed Development and any military vessel transits, and therefore there is no potential for the Proposed Development to interfere with normal military operations or what might be considered an urgent military need"*. This analysis was not challenged at any point during the examination of the Application, and has also not been since.
38. The ExA addressed impacts on shipping, navigation and other marine users within its Recommendation Report⁵ issued to the SoS at paragraph 7.6. In this regard the ExA found as follows:
- a. *"whilst the offshore cable route would intersect a military danger area, the Ministry of Defence had no safeguarding concerns";*
 - b. *"There was general acceptance amongst the Interested Parties whose interests extend across the maritime environment that the Proposed Development would not adversely affect fisheries, shipping, navigation or recreational users of the waters off the UK shores and into the Channel";* and
 - c. *"Taking account of the proposed mitigation, the ExA concludes that the Proposed Development would not pose unacceptable risks to maritime safety. The ExA is satisfied that the Proposed Development complies with NPS EN-1. The ExA therefore finds this to be a neutral factor in the planning balance."*
39. Accordingly, AQUIND has undertaken a thorough assessment of the potential for impacts to arise on marine users, in accordance with the requirements of national policy contained in NPS EN-1, including the potential for disruption to military exercises which are undertaken in connection with HMNB Portsmouth. A very clear position was reached by all parties, including the MoD, that the Proposed Development would not impede or compromise the safe and effective use of HMNB Portsmouth.

⁵ <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN020022/EN020022-004425-EN020022%20-%20Final%20Recommendation%20Report.pdf>



40. It is noted that there is no criticism made by the MoD of the assessment undertaken by AQUIND, including that this did not consider all matters which were relevant or that adequate consultation was not undertaken with the MoD. Moreover, we note that at no point has there been any suggestion by the MoD or any other person that the assessment undertaken does not fully meet the requirements of national policy, provided for at paragraphs 5.4.10 – 5.4.14 of National Policy Statement EN-1 (2011), which is the applicable version of the NPS for the determination of the Application (and which are reflected at paragraphs 5.5.37, 5.5.39, 5.5.40 and 5.5.49 of the 2023 updated NPS EN-1). Nor is there any suggestion that there has been any material change in circumstance since the scope and content of this assessment was agreed by the MoD.

The presence of other projects and activities

41. The assessment of impacts on shipping, navigation and other marine users also clearly identifies the significant number of other projects and commercial and recreational activities which are undertaken in this part of the English Channel. This includes significant commercial fishing and aggregate dredging activity (see Figure 29.3 [APP-344], Figure 29.4 [APP-345]), and the presence of energy projects including the IFA2 Interconnector and the Rampion Offshore Wind Farm (see Figure 29.1 [APP-342]), which is currently the subject of an application for development consent for its significant expansion, including for it to be located in closer proximity to the designated military training area than the AQUIND Interconnector Marine Cables would be. Please also see Appendix 2 to this submission with the updated coordinates of the Rampion Extension developments and other marine activities.
42. With specific regard to the IFA2 Interconnector, this is located approximately 400 m (at its closest point) from the Proposed Development, on approach to the Solent area, running through the designated military practice area to the east of the Isle of Wight and crossing the mouth of the port. Every vessel entering or leaving HMNB Portsmouth, including all military vessels, will have to pass over, or run parallel to the IFA2 Interconnector subsea HVDC cables. The IFA2 interconnector uses the same HVDC 320 kV subsea cable technology as is proposed for the Proposed Development, including the use of fibre optic cables for monitoring purposes associated with the safe and reliable operation of the interconnector.
43. We note that in respect of the IFA2 Interconnector the MoD has publicly confirmed that it *“investigated the implications of the cable route on MOD activities and does not consider that the IFA2 cable installation scheme will affect defence interests”*⁶. We understand that the operation of the IFA2 Interconnector is continuing and there has been no MoD intervention in this regard, nor has there been any MoD intervention in respect of any other existing activity or existing or proposed project within the marine area in and around HMNB Portsmouth.
44. A number of major international data cables are also located in the English Channel, including the Atlantic Cable (see Figure 3.7 Atlantic Cable Crossing [APP-152]), which crosses the whole length of the English Channel. The UK in general is at the nexus of a large number of global and regional data transmission lines as demonstrated by publicly available data (see Appendix 3). Unlike the AQUIND Interconnector, whose marine cables will be buried or covered by other protective measures, data cables are normally just laid on the seabed.
45. The area of the English Channel understood to be of relevance to the MoD's concerns is also subject to various fishing activities including commercial fisheries. Many vessels outside of the

6

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12 nmi limit are from other countries (Figure 12.4 [APP-182]). Some French vessels also enter within 12 nmi.

46. [To confirm that the level of impact of the Proposed Development on shipping, navigation and other marine users is not changed from when the Application was submitted and assessed AQUIND has commissioned Anatec, who assisted with this assessment within the ES, to reconsider the baseline environment and specifically military activity. Anatec's Report which is included at Appendix 4 to this submission confirms in its conclusions as follows:
- a. *"Based on the available information (noting the limitations with publicly available military data), the baseline environment where it concerns marine military activity within the study area has not materially changed. Therefore, based on the consultation responses received at the time of application (Section 2), the previous assessment of the impacts of the Proposed Development as Broadly Acceptable (low risk; not significant) remains appropriate (see section 13.6.1.26, [APP-128])"*.
47. It is against this background and in this context that the MoD's submissions, both those made in open correspondence and those which have been submitted on a closed basis, are required to be considered.

The MoD's submissions

48. Both James Muncie and Captain Lee McLocklan seek to allege that *"the Proposed Development would unacceptably impede and compromise the safe and effective use of a key defence asset, HMNB Portsmouth, and RN operations in the area of HMNB Portsmouth and the English Channel, including unacceptably limiting military training. This represents a clear risk to UK defence and national security."*
49. How the Proposed Development would give rise to such impacts is however not addressed to any extent in the open submissions. It is stated in the statement of James Muncie that *"[t]he reasons why the Proposed Development is a cause of significant concern for the MOD and why MOD considers development consent should be refused necessarily involve information regarding UK defence and national security which it would be contrary to the national interest to disclose. They are therefore set out in CLOSED submissions in accordance with the procedure set out by SoS ESNZ in the letter of 12 July 2024."*
50. Within the above statement is apparent that James Muncie identifies that because the concerns are concerns held by the MoD, they must therefore necessarily involve information regarding UK defence and national security, and that it would therefore be contrary to the national interest to disclose them. Whilst AQUIND has of course not seen the reasons why the Proposed Development is of significant concern for the MoD, this explanation of why the MoD cannot detail those reasons openly is circular and not robust. For any representations to be kept confidential it must be clear that the public disclosure of those *"would be likely to result in the disclosure of information as to defence or national security"* and *"would be contrary to the national interest."* These are clear, specific legal thresholds that must be capable of demonstrably being shown to be met for the consideration of representations in a closed manner to be justified and lawful.
51. We trust that Department officials have applied a much more rigorous approach than the MoD to considering whether the tests at section s.95A(1) of the 2008 Act are met when determining that the claimed confidential materials should properly not be disclosed, as any Appointed Representative will be required to test this and as, indeed, the Court may be required to in the future.
52. The stark change in the position of the MoD by comparison to that expressed during the examination is also highly surprising, particularly in circumstances where other projects which



use the same or similar technology are in as close, and closer, proximity to HMNB Portsmouth and the designated military practice areas, including the IFA2 Interconnector which utilises the same subsea cable technology as is proposed for the Proposed Development, and which no objections have been raised in respect of so far as AQUIND is aware.

53. With that being the case and noting the assessment that has been undertaken and previously agreed by the MoD, AQUIND is unable to discern any logical or coherent causal link justifying the MoD's changed position, nor why the Proposed Development would give rise to the impacts now claimed by the MoD. There is, contrary to the submissions made by the MoD, no clear reason why the Proposed Development would compromise or impede operations from the naval base. It appears that the MoD are seeking to treat the AQUIND Interconnector exceptionally, in a manner which is inconsistent with its response to other projects which utilise the same technology, without any sound basis for this discrimination.
54. This is particularly the case when bearing in mind the range of potential threats and vulnerabilities to UK defence and national security which the statement advances and insinuates could be of relevance to the Proposed Development, which include "*terrorism, espionage, sabotage, subversion and organised crime*" which would equally apply to IFA2 and many other activities lawfully carried on in the English Channel.
55. There is no basis on which to link any such national security issues to AQUIND Interconnector, or to contend that the presence and operation of AQUIND Interconnector in the proposed location would heighten the risk of any such event occurring, now or at any point in the future over the operational lifetime of the Proposed Development.
56. For the avoidance of any doubt, the MoD's reasoning is refuted by AQUIND in the strongest possible terms. Were it the case that there is the potential for any such issues to arise in connection with proposals for an energy project of a type which is in principle supported by national policy, EN-1 outlines the process for these to be identified and addressed at an early stage of the relevant project – see paragraph 4.15 of NPS EN-1 (2011) (or 4.16 of NPS EN-1 (2023)). This embraces taking account of how such threats to UK defence and national security may evolve over time and be impacted by proposals for energy projects. The absence of any concern being raised at any stage of AQUIND's Application demonstrates the absence of any legitimate concern in this respect. Furthermore, even if there were a legitimate concern, procedural fairness and the law demand that this is subject to a transparent and verifiable assessment.
57. In a submission which is dealing with and alleging impacts on the use of HMNB Portsmouth and the need for this not to be impeded or compromised, it is also not clear why it was necessary to reference these types of threats and vulnerabilities. They are not of direct relevance to any potential impact of the Proposed Development on HMNB Portsmouth, and the statements of James Muncie and Captain Lee McLocklan each fail to establish any link between the use of the naval base and the prevention of those threats and vulnerabilities.
58. It is also not to any extent explained why HMNB Portsmouth, present in the same location since 1194 and which is in a very active area of sea where various activities are undertaken in co-existence, is in a "*sensitive location in the English channel*" when considering the impacts of the Proposed Development. Again, this is a pleading made without any justification, and it very clearly runs contrary to the reality that HMNB Portsmouth has operated and will continue to operate in a busy marine environment and in a manner which co-exists with other marine users. This includes other marine users who are delivering other critical services to the UK in the national interest, such as the provision of electricity to ensure security of energy supply and which significantly contribute to the decarbonisation of the UK electricity network.



59. In light of the above, there is an unavoidable concern held by AQUIND that the MoD is abusing the issue of national security in the planning process in a manner that is materially and unfairly prejudicing AQUIND and its legitimate interests. The approach taken by the MoD does not accord with what national planning policy and government policy requires, and there is concern that the MoD is potentially behaving unlawfully in respect of this matter. We trust that the SoS will take these concerns seriously, particularly in circumstances where the MoD's inconsistent behaviour in the public domain signals to industry that processes in place for the fair and effective consenting of significant national infrastructure cannot be relied upon, deterring investment at a time when delivery of such infrastructure is critical for energy security and meeting Net Zero.
60. We also must also query the experience of Captain Lee McLocklan to opine on this matter. Captain McLocklan explains that he joined the Royal Navy in 1991 and that he has spent his career in Logistics. Logistics is identified to be responsible for Logistics support and personnel administration.
61. Captain McLocklan then explains that he is now in post as the Deputy Naval Base Commander and that this role includes responsibility for the security of HMNB Portsmouth, which in turn includes ensuring and maintaining safe waterways around the base, so that training can be undertaken. Captain McLocklan has been in this post with this new responsibility for 7 months. Importantly, whilst identifying he now holds this responsibility, Captain McLocklan does not set out any relevant experience of managing the relationship between the construction and operation of energy infrastructure projects and the operations of ports. Nor does Captain McLocklan set out the extent, if any, to which he has sought to familiarise himself with the application details insofar as they bear on HMNB Portsmouth.
62. We therefore wish to put on record concerns about the experience of Captain McLocklan to make the statements he does on the impacts of the Proposed Development, particularly where those statements are made without any explanation of how those impacts could be caused, and again in the context of what is a very active marine environment in this location and in circumstances where there is an existing project utilising the same technology in closer proximity to the naval base and the military training area.

Mitigation

63. AQUIND is also surprised and disappointed by the comments in the statement of James Muncie that the MoD does not consider that there is any sufficient or appropriate mitigation available in respect of the impacts which the MoD now identifies. The MoD has not since raising its concerns with the Department engaged constructively with AQUIND to any extent, including in respect of AQUIND's offers to consider how it might provide the MoD with a level of oversight of the delivery company for the Interconnector, and of matters relevant to the supply and construction of the project.
64. For completeness and to ensure the SoS has awareness, the matters which AQUIND identified it would be willing to enter into an agreement with the MoD in respect of before the commencement of the construction of the Proposed Development are as follows:
- a. approval of the suppliers for the project;
 - b. approval of contractors / sub-contractors delivering the marine elements of the project;
 - c. confirmation of AQUIND's construction programme, and modifications where necessary to avoid conflicts with any MoD works in the marine environment;
 - d. ability for representatives of or on behalf of the MoD to oversee the delivery of the marine elements of the project (a watching brief); and



- e. confirmation of the delivery company corporate structure for the AQUIND Interconnector, and approval in respect of shareholders, taking into account that the company falls under the National Security and Investment Act 2021. For example, a similar regime exists in AQUIND's agreements in respect of a seabed license with the Crown Estate and a lease of a land plot with National Grid.
65. In addition, AQUIND also identified that it is open to further discussion of any other issue which could provide the comfort or mitigation to allow the MoD to resolve any concerns it may have.
66. Whilst the MoD's position on mitigation is clearly set out, and it is also clear that in presenting this position the MoD has not conducted itself in the collaborative manner which national policy requires where there is a clear expectation that all persons will make appropriate efforts to work together to identify realistic and pragmatic solutions to any conflicts, it is not clear whether the proposed mitigation has been assessed by the MoD at all.
67. It will be for the SoS to determine whether appropriate mitigation can be achieved, taking into account his understanding of what may be causing any impact and having sought necessary (including technical) advice on how that may be resolved. In so doing he will be able to have regard to the proposals already put forward by AQUIND and detailed above, and of any other appropriate mitigation which can be achieved, or appropriate requirements which can be attached to any Order to secure those mitigations. Should the SoS identify that appropriate mitigations can be achieved he should proceed to make an Order which provides for those, or consult to the extent he is able with AQUIND on their imposition. This is a matter which will be subject to the scrutiny of the Appointed Representative in due course also.
68. With regard to further mitigation, whilst it is of course difficult to identify mitigation to address concerns where the reasons for those are unknown and indiscernible in light of the facts of the proposals, AQUIND is keen to put forward reasonable proposals for mitigation, which the SoS may take into account. Accordingly, it is confirmed that AQUIND would also be amenable to accepting additional oversight in the form of random, temporary or permanent monitoring by the MoD during the construction, commissioning, operation and decommissioning stages of the Proposed Development, at AQUIND's expense.

Matters of process relevant to the re-determination

69. We take this opportunity to reiterate that any representations made by the MoD must be valid material planning considerations for them to be taken into account for the purposes of the decision on the Application. To be a material planning consideration the relevant matter must serve a planning purpose, and to serve a planning purpose it must relate to the character of the use of the land.
70. Should any reasons provided by the MoD not relate to the character of the use of the land they will not serve a planning purpose, and they will not be a material planning consideration. This includes where the underlying reasons serve an ulterior purpose, however desirable that purpose may seem to be in the public interest. Any such non-planning reasons must not be taken into account for the purposes of deciding the Application.
71. We also wish to highlight rule 19(3) of the Infrastructure Planning (Examination Procedure) Rules 2010 (the "**Rules**"), which details the procedure that must be followed after the completion of an examination, including following a quashing of a previous decision.
72. This rule requires that where the SoS differs from the ExA on any matter of fact mentioned in, or appearing to the SoS to be material to, a conclusion reached by the ExA, or takes into consideration any new evidence or new matter of fact, and is for that reason disposed to disagree with a recommendation made by the ExA, the SoS shall not come to a decision which is at variance with that recommendation without first:



- a. notifying all interested parties of the SoS' disagreement and the reasons for it; and
 - b. giving them an opportunity of making representations in writing to the SoS in respect of any new evidence or new matter of fact.
73. The recommendation of the ExA was to grant development consent, and their conclusions on the impacts of the Proposed Development on shipping, navigation and other marine users are detailed in paragraph 36 of this response. Where the SoS is now taking into account new information from the MoD which leads to him disagreeing with the recommendation of the ExA to grant development consent, the SoS must comply with this rule.
74. Within the letter of 12 July 2024, the SoS has not identified any steps in the process which would involve notification of his disagreement with the recommendation of the ExA should there be one, nor provide an opportunity for representations to be made once he has notified interested parties of any such disagreement. Should the SoS not provide for this he will be in breach of the requirements provided for by the Rules.
75. We also note that paragraph 5.5.2 of NPS EN-1 (2023), which is not referred to in the MoD's open submissions, provides that "*Collaboration and co-existence between aviation, defence and energy industry stakeholders should be strived for to ensure scenarios such that neither is unduly compromised*", and paragraph 5.5.49, which is referred to by the MoD, provides "**The Secretary of State should be satisfied that the effects on meteorological radars, civil and military aerodromes, aviation technical sites and other defence assets or operations have been addressed by the applicant and that *any necessary assessment of the proposal on aviation, NSWWS or defence interests has been carried out***".
76. These paragraphs are noted in relation to the MoD's open representations because, in circumstances where the MoD has changed its position on the basis of any new evidence or matter of fact such that it now objects on the basis that there are unacceptable impacts on HMNB Portsmouth as a consequence of the Proposed Development, AQUIND must be allowed an opportunity to address those concerns through assessment in collaboration with the MoD.
77. Moreover, the SoS risks being in breach of his duty to take reasonable steps to inform himself so as to be able to answer the question before him (*Secretary of State for Education and Science v Tameside MBC* [1977] AC 1014 at 1065B) should he proceed without requiring this necessary assessment to be undertaken. In circumstances where AQUIND had previously established through agreement with the MoD that all necessary assessment had been undertaken, a position accepted by the ExA, the volte face by the MoD requires the paragraph 5.5.49 process to be re-visited to inform the decision.
78. Accordingly, should the circumstance arise where the SoS differs from the ExA on any matter of fact mentioned in, or appearing to the SoS to be material to, a conclusion reached by the ExA, or takes into consideration any new evidence or new matter of fact, and is for that reason disposed to disagree with a recommendation made by the ExA, we trust the SoS will follow the necessary steps to comply with his legal requirements established by rule 19 of the Rules and inform AQUIND of this before taking his decision.
79. We also trust that the SoS will ensure he is furnished with all necessary assessment of the Proposed Development on defence assets that he requires to reach his decision and allow AQUIND an opportunity to address the MoD's concerns through assessment in collaboration with the MoD.
80. Should the MoD continue to choose to not constructively engage with AQUIND, we trust the SoS will take this into account when determining the weight to be applied to the MoD's representations.



Concluding remarks

81. The AQUIND Interconnector will have the capacity to transmit up to 16,000,000MWh of electricity per annum, which equates to approximately 5% and 3% of the total consumption of the UK and France respectively. It will deliver significant benefits in respect of providing the UK and France with energy security and meeting Net Zero targets in the national interest. The needs and benefits of the Proposed Development, including in respect of energy supply and decarbonisation, and also its significance to the UK, regional and local economies, including anticipated tax revenues amounting to approximately £3bn, are fully described in the Needs and Benefits Report and its addendums⁷.
82. The significant benefits of AQUIND Interconnector and need for it was confirmed by the ExA at paragraph 5.3.54 of their Recommendation Report, where they concluded that *"there is an urgent need for the Proposed Development, and that the need case has been clearly made"*. Moreover, the ExA identified at paragraph 9.3.10 of their Recommendation Report that the limited *"identified adverse effects would be mitigated as far as is reasonably practicable and that the necessary measures could be properly secured through the Recommended DCO and the associated control documents, such that the identified significant adverse effects would be largely time-limited and reversible"*. The ExA concluded at paragraph 9.3.11 of their Recommendation Report that *"the final balance indicates strongly in favour of granting development consent"*.
83. AQUIND strongly disagrees that *"the Proposed Development would unacceptably impede and compromise the safe and effective use of a key defence asset, HMNB Portsmouth, and RN operations in the area of HMNB Portsmouth and the English Channel, including unacceptably limiting military training."* There is no logical or coherent causal link able to be discerned for why the Proposed Development would give rise to the harmful impacts now claimed by the MoD.
84. Contrary to the submissions made on behalf of the MoD, there is no clear reason why the Proposed Development would compromise or impede operations from the naval base. This is particularly the case when taking into account the IFA2 Interconnector, which uses the same technology as AQUIND Interconnector, and which has been constructed and is operating in closer proximity to HMNB Portsmouth than AQUIND would be. It must therefore have given rise to similar impacts in connection with its construction and be giving rise to such similar impacts in connection with its operation, yet the MoD confirmed that *"they investigated the implications of the cable route on MOD activities and does not consider that the IFA2 cable installation scheme will affect defence interests"*. AQUIND Interconnector is being treated exceptionally by the MoD, without valid planning or other justification for this.
85. Furthermore, there is another operational interconnector in the English Channel between the UK and France, IFA2000, and a planned interconnector, FAB Link, which holds a marine licence from MMO. Naval vessels would need to cross either of these two projects to get out to sea and, as far as AQUIND is aware, the MoD has raised no concerns about these projects.
86. Moreover, to be material any claimed basis for the MoD's objection to the Proposed Development must relate to the character of the use of land. It is AQUIND's view that it is implausible that there could, on fair and proper consideration, be no mitigation to address the MoD's concerns. The MoD has categorically failed to explore any mitigation, refusing to

⁷ Needs and Benefits Report [APP-115], Need and Benefits Addendum [REP1-136], Needs and Benefits Second Addendum Errata [REP7c-008], Needs and Benefits Third Addendum [\[https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN020022/EN020022-004933-Needs%20and%20Benefits%20Third%20Addendum.pdf\]](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN020022/EN020022-004933-Needs%20and%20Benefits%20Third%20Addendum.pdf)



engage with AQUIND contrary to the expectations of national planning policy. AQUIND has put forward reasonable proposals for mitigation, which the SoS must take into account and consider whether they address any valid planning related concerns of the MoD, as well as satisfying himself of the potential for mitigation with knowledge of the reasons for the MoD's concerns (including obtaining such further assessment as he requires to fully consider this issue).

87. We trust that the SoS will fully take into account this response to the MoD's open submissions when considering the MoD's submissions in their entirety, and that he will also ensure his decision is taken in a manner which complies with all relevant regulatory and other legal requirements.

Yours faithfully

Herbert Smith Freehills LLP

Herbert Smith Freehills LLP

Encl.



HERBERT
SMITH
FREEHILLS

**APPENDIX 1. DEFENCE INFRASTRUCTURE ORGANISATION SECTION 42
CONSULTATION RESPONSE**



Ministry
of Defence

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Defence Infrastructure Organisation

Safeguarding Department
Statutory & Offshore

Defence Infrastructure Organisation
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E-mail: DIO-safeguarding-statutory@mod.gov.uk

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13 May 2019

Our reference: 10042978

Dear Sir/Madam,

MOD Safeguarding

Proposal: AQUIND Interconnector – Section 42 Planning Act 2008 and the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Thank you for consulting the Ministry of Defence (MOD) on the above proposed development. The MOD previously commented on this proposal in November 2018 following a Scoping consultation by The Planning Inspectorate.

We previously identified that the onshore cable route corridor captured several pieces of MOD Estate. We have reviewed the onshore site boundary for the onshore cable route (drawing EN020022-RLB-0001_1) submitted as part of this consultation and note the cable route does not run through any MOD estate but does pass near some parcels of MOD estate and properties. As the cable route will run in the highways like other utilities we currently have no concerns but due to the close proximity of the cable route to pieces of MOD estate we request that the MOD is consulted on the final cable route.

The offshore cable route will intersect military Danger Area D037 however we have no safeguarding concerns with the cable route passing through this danger area. We have no other offshore safeguarding concerns with this proposal however historic explosive munitions disposal sites and unexploded ordnance (UXO) should be taken into account.

I trust this is clear however should you have any questions please do not hesitate to contact me.

Yours sincerely

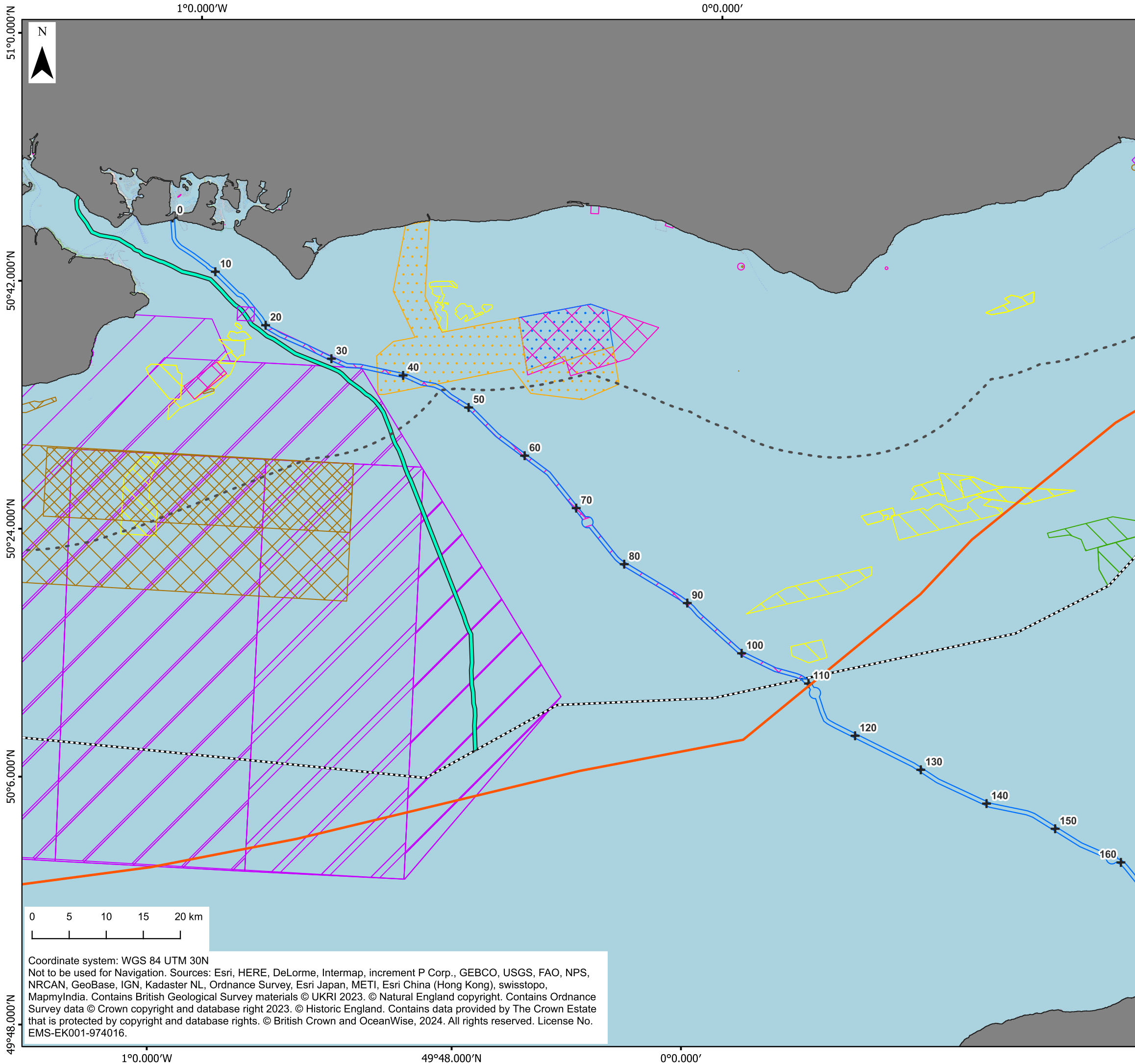
Laura Nokes
Senior Safeguarding Officer



HERBERT
SMITH
FREEHILLS

Date
14 October 2024
Letter to
Secretary of State for Energy Security & Net Zero

APPENDIX 2. A MAP OF MARINE ACTIVITIES IN THE VICINITY OF HMNB PORTSMOUTH



Key

Aquind Order Limits	Other sea users
KP	Exploration and option area
UK EEZ	Production agreement area
12 Mile nautical limit	Military practice area
Atlantic Crossing Cable	
IFA2	
Wind farms	
Rampion	
Rampion 2	
Disposal sites	
Closed	
Open	

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

REV	DATE	BY	DESCRIPTION	CHK	APP
02	08/10/2024	JB	SECOND DRAFT	SS	SM
01	25/09/2024	JB	FIRST DRAFT	SS	SM

DRAWING STATUS: **APPROVED**



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CLIENT:



PROJECT: **AQUIND Interconnector**

TITLE: **Marine Environmental Constraints**

SCALE AT A3: 1:500,000	CHECKED: SS	APPROVED: SM
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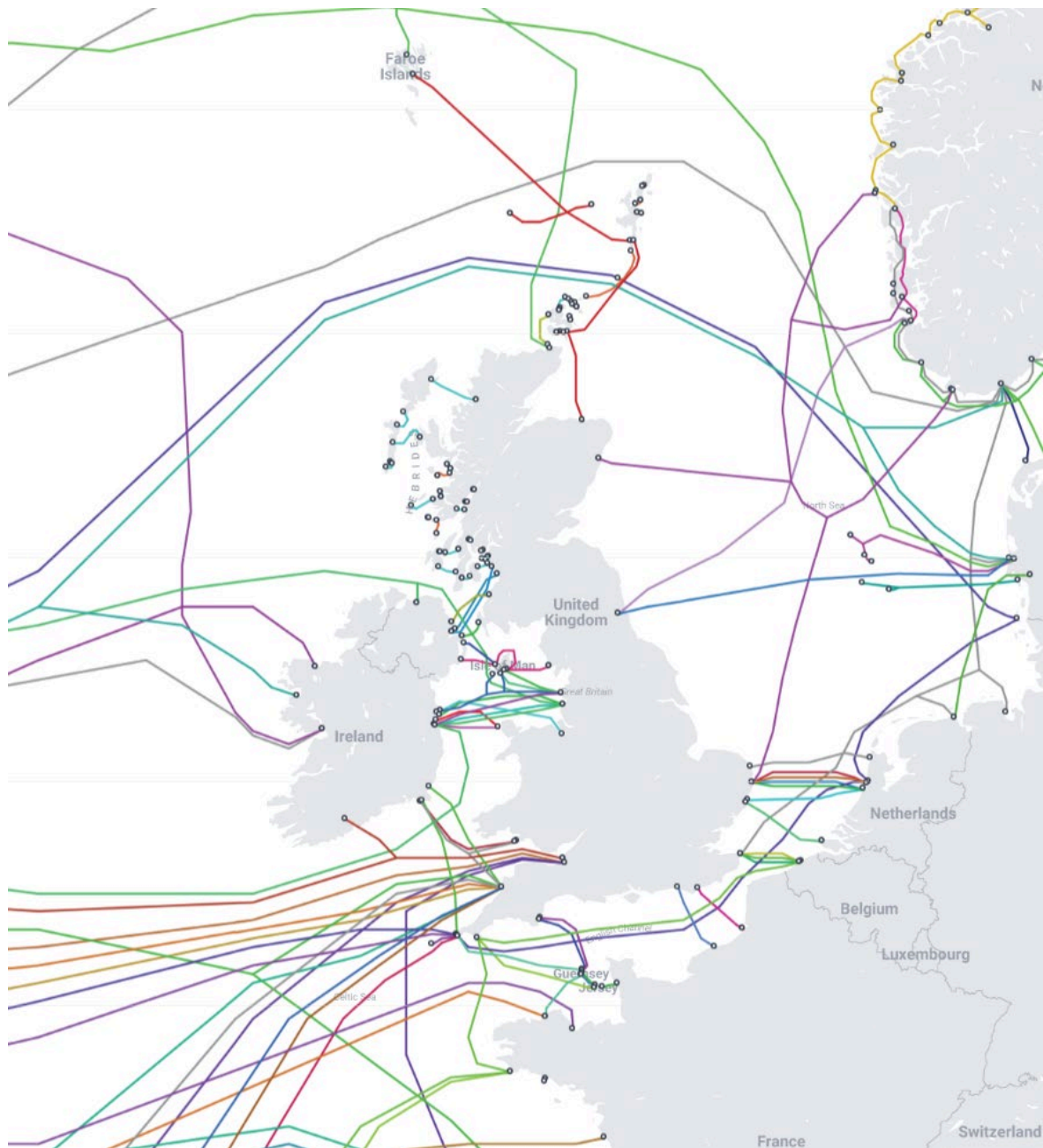
PROJECT NO: EN020022	DESIGNED: JB	DRAWN: JB	DATE: 08/10/2024
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DRAWING NO: EN020022 GB201394_M_153_A	REV.NO: 01
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Coordinate system: WGS 84 UTM 30N
Not to be used for Navigation. Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia. Contains British Geological Survey materials © UKRI 2023. © Natural England copyright. Contains Ordnance Survey data © Crown copyright and database right 2023. © Historic England. Contains data provided by The Crown Estate that is protected by copyright and database rights. © British Crown and OceanWise, 2024. All rights reserved. License No. EMS-EK001-974016.



APPENDIX 3. A MAP OF DATA TRANSMISSION CABLES AROUND THE BRITISH ISLES



Source - <https://www.submarinecablemap.com>



HERBERT
SMITH
FREEHILLS

Date
14 October 2024
Letter to
Secretary of State for Energy Security & Net Zero

APPENDIX 4. BASELINE ACTIVITY REVIEW REPORT



AQUIND Interconnector Military Activity Review

Prepared by Anatec Limited
Presented to Natural Power
Date 14/10/2024
Revision Number 04
Document Reference A5370-NP-TN-01

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Revision Number	Date	Summary of Change
00	27 September 2024	First Issue
01	04 October 2024	Updated based on Natural Power comments
02	08 October 2024	Updated based on further comments
03	11 October 2024	Updated based on legal review
04	14 October 2024	Updated based on further comments

Table of Contents

1	Introduction	1
2	Consultation	2
3	Portsmouth Harbour and Naval Base.....	3
4	Military Practice Areas	5
5	AIS Military Vessel Activity	6
6	Discussion of Impacts	11
7	References	12

Table of Figures

Figure 3.1	Location of Portsmouth Harbour	3
Figure 4.1	Military Practice Exercise Areas.....	5
Figure 5.1	AIS Military Vessel Tracks (January & July 2018)	6
Figure 5.2	AIS Military Vessel Tracks (July 2022 & January 2023)	7
Figure 5.3	AIS Military Vessel Tracks (January & July 2024)	7
Figure 5.4	AIS Military Vessel Density (Six Months)	8
Figure 5.5	AIS Military Vessel Tracks - Nearshore (Six Months)	9
Figure 5.6	Average Military Vessels Recorded on AIS per Month	10

Table of Tables

Table 2.1	Details of Relevant Consultation Feedback	2
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Abbreviations Table

Abbreviation	Definition
AIS	Automatic Identification System
HM	His Majesty's
KHM	King's Harbour Master
m	Metre(s)
MCA	Maritime and Coastguard Agency
NRA	Navigational Risk Assessment
nm	Nautical Miles(s)
PEIR	Preliminary Environmental Information Report
PEXA	Practice Exercise Area
QEC	Queen Elizabeth Class
QHM	Queen's Harbour Master
TSS	Traffic Separation Scheme
UKHO	United Kingdom Hydrographic Office
VHF	Very High Frequency
VTS	Vessel Traffic Service

1 Introduction

This report presents the findings of a desk-based review of publicly available information regarding military activity in the vicinity of the AQUIND Interconnector. The report is an update to previous work carried out by Anatec to inform the Environmental Statement for the AQUIND interconnector, to review whether the conclusions remain appropriate in light of any new or more recent evidence. The report highlights consultation carried out to inform the Navigational Risk Assessment (NRA) for the AQUIND Interconnector and reviews information on military activity at Portsmouth Harbour and Practice Exercise Areas (PEXAs) in the area. Movements of military vessels recorded in Automatic Identification System (AIS) data are also analysed.

2 Consultation

During the NRA process undertaken in 2019, consultation was carried out with the King’s Harbour Master (KHM) (at the time named the Queen’s Harbour Master (QHM)), as part of the Nab User Group. The Ministry of Defence also offered responses to the Scoping Report and to the Preliminary Environmental Information Report (PEIR). Details of the relevant points raised in consultation are presented in Table 2.1.

Table 2.1 Details of Relevant Consultation Feedback

Consultee	Point Raised
Nab User Group – Consultation Meeting	It was raised that activity from military vessels will be under-represented in the AIS baseline analysis and Ministry of Defence (MoD) should be consulted. However, it was also noted that little exercise activity occurs in close proximity to the proposed cable due to the large number of vessels and activities within the area.
	Weekly updates of the progress of the project are to be communicated to ABP Southampton, QHM Portsmouth, MCA, and Langstone Harbour. In addition, any notices to fishermen should also be distributed to the above.
MoD – Scoping Response	The extent of maritime military practice and exercise areas within the vicinity of the Proposed Development has been identified in the Scoping Report. The cable route will intersect Danger Area D037, the MoD has no concerns with the cable route passing through this area.
	The potential for the offshore development area to contain historic disposal sites for explosive munitions has been identified and considered. In addition, the potential presence of unexploded ordnance (UXO) has also been considered as a relevant consideration with respect to the installation of the cables and geophysical surveys.
MoD – PEIR Response	The offshore cable route will intersect military Danger Area D037 however we have no safeguarding concerns with the cable route passing through this danger area. We have no other offshore safeguarding concerns with this proposal however historic explosive munitions disposal sites and UXO should be taken into account.

3 Portsmouth Harbour and Naval Base

The location of Portsmouth Harbour relative to the cable corridor is presented in Figure 3.1. The existing IFA2 interconnector, which is technologically similar to the Proposed Development, is also shown in all figures. The IFA2 interconnector was constructed between 2018 and 2020 and has been operational since January 2021¹.

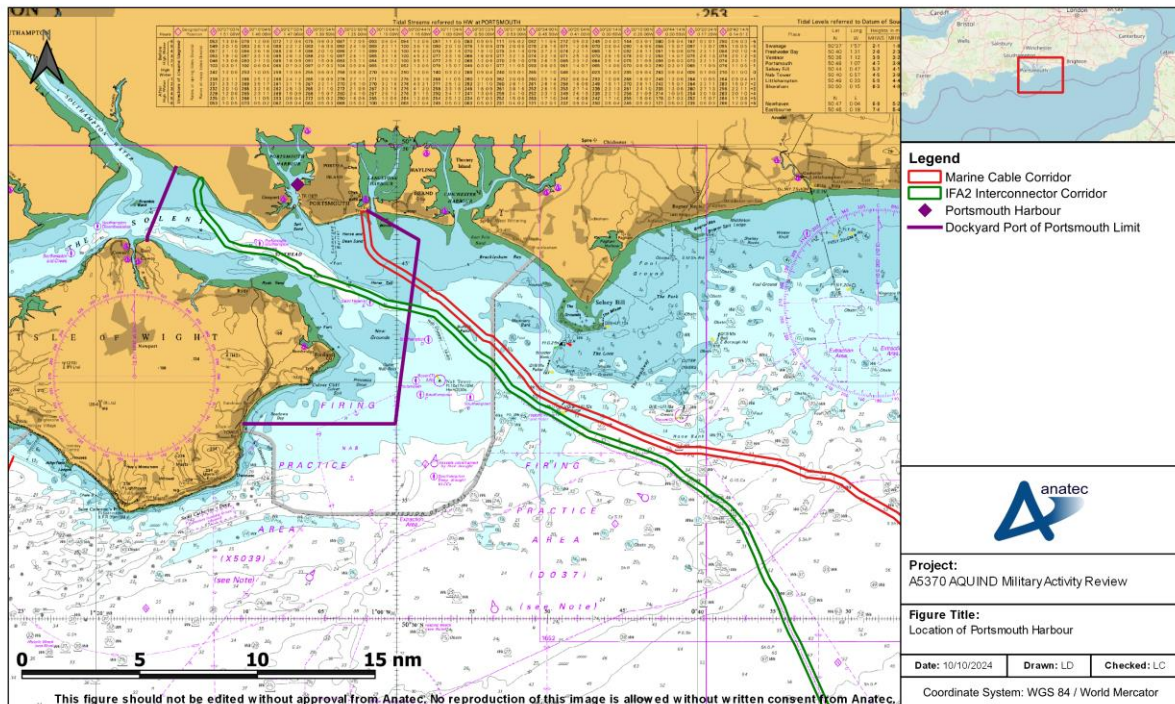


Figure 3.1 Location of Portsmouth Harbour

The *Admiralty Sailing Directions NP27, Channel Pilot* (Ref. i) provides details on military activities at Portsmouth Harbour. Portsmouth Harbour includes a major naval base, located on the eastern side of the harbour. The KHM Portsmouth is the naval harbour authority for the harbour, and operates a Vessel Traffic Service (VTS), the KHM Harbour Control, maintaining radar coverage of the East Solent, and co-ordinating all vessels entering or leaving the harbour. KHM Harbour Control gives directions to vessels within the Dockyard Port of Portsmouth waters, which extend south from Portsmouth Harbour to Sandown Bay on the Isle of Wight. The cable corridor landfall is within the Dockyard Port of Portsmouth limits.

Vessels of more than 20m in length are required to maintain a listening watch on Very High Frequency (VHF) radio to the KHM Harbour Control, when passing designated reporting points throughout the harbour and approach channels. Vessels anchoring outside the harbour at Spithead should also report prior to weighing anchor. The anchorage at Spithead is a warship anchorage, and may only be used with the consent of KHM Portsmouth.

¹ Ofgem, 25 March 2022, Post Construction Review of the IFA2 Interconnector to France, paragraph 1.3, available at <https://www.ofgem.gov.uk/sites/default/files/2022-03/IFA2%20Consultation%20-%20FINAL.pdf>

It is also noted that the harbour is closed during the movement of aircraft carriers.

In addition to these, passing distances to be maintained to His Majesty's (HM) Ships and the Naval Base are defined in KHM Portsmouth's Direction 4/23 (Ref. ii). No vessels shall navigate within:

- 50m of any HM vessels, foreign warships or auxiliaries, alongside any Crown Establishment or at anchor or secured to a buoy or mooring within the harbour;
- 50m of the walls, slipways and boundaries of any Crown Establishments, with the exception of vessels using the Small Boat Channel close to Fort Blockhouse in the harbour entrance;
- 100m of any submarine alongside any Crown Establishment, at anchor, or secured to a buoy or mooring within the harbour.

Exclusion zones of 250m, or to the limits of navigable water where this is less than 250m, may also be in place around warships underway. When these are in place, only vessels escorting the warship or with the permission of the escort commander may pass within the exclusion zone. These exclusion zones are outlined in KHM Portsmouth's Direction 12/23 (Ref. iii).

Local Notices to Mariners (LNtMs) are also issued for Portsmouth Harbour by KHM Portsmouth. These include local notices regarding aircraft carrier movements, fast transits by small military craft, and relating to "cold moves" of military vessels.

LNtM 13/24 (Ref. iv) notes that while Queen Elizabeth Class (QEC) aircraft carriers operate or transit within the Dockyard Port of Portsmouth waters, these are subject to a 250m exclusion zone (as noted above), and a closed channel will be brought into force (preventing other vessel movements during the operation). Within 2nm of a QEC aircraft carrier which is underway, mariners are directed to keep speeds below 15 knots. If a QEC aircraft carrier is anchored within the Dockyard Port of Portsmouth limits, this is subject to a 150m exclusion zone.

LNtM 07/24 (Ref. v) notes that military vessels are often moved by tugs, with no steering or engine power of their own, in what is called a "cold move". The notice outlines the lights and signals which will be exhibited by vessels being moved and those conducting the move. In some cases, vessels may be unable to display the correct lights, while vessels conducting the move may be severely restricted in their ability to manoeuvre.

LNtM 06/24 (Ref. vi) advises that small military craft may conduct fast transits within the harbour. During these operations, typical navigation lights may not be displayed by military craft, and mariners are requested to keep well clear of craft involved in these operations.

4 Military Practice Areas

The location of military areas in proximity to the cable corridor are presented in Figure 4.1, based on publicly available information including charted boundaries and Admiralty Notices to Mariners. It is noted that information on other areas that may also be used for military exercises may not be publicly available.

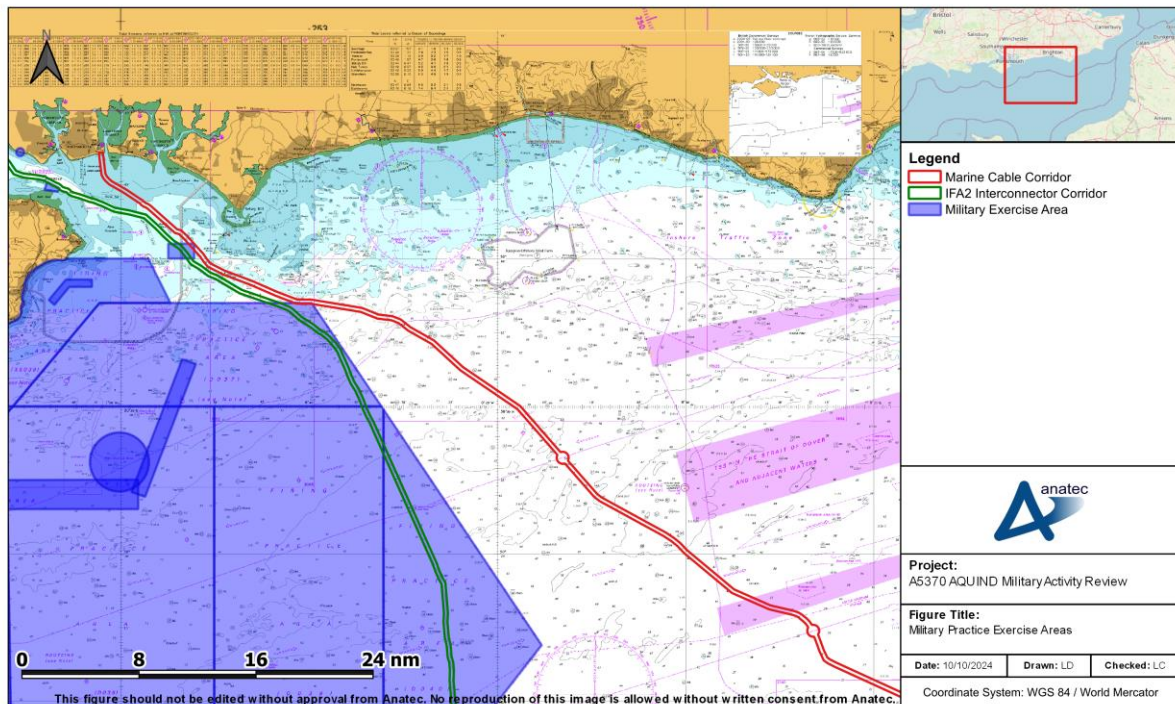


Figure 4.1 Military Practice Exercise Areas

PEXAs in proximity to the cable corridor include the charted firing practice areas D037-D040, as well as firing practice areas X5039 located off the east coast of the Isle of Wight. Of these, the cable corridor only intersects D037, approximately 17nm from the proposed landfall location.

In addition to the firing practice areas, there are a number of additional military exercise areas in the vicinity of the cable corridor. One of these is intersected by the cable corridor, approximately 8.4nm from the landfall.

The chart also notes the presence of submarine exercise areas to the west of the cable corridor, off the south coast of the Isle of Wight.

It is noted that the IFA2 Interconnector passes through the marine exercise areas for extended distances, as well as passing through the Solent to the south of Portsmouth Harbour.

5 AIS Military Vessel Activity

This section presents analysis of military vessels recorded on AIS during January and July 2018, July 2022 and January 2023, and January and July 2024. It is noted that military vessels are not required to broadcast on AIS, and are therefore anticipated to be under-represented in the data. A study area of 5nm around the Marine Cable Corridor within UK waters was defined to capture vessel activity of relevance to the cable corridor. It is noted that this encompasses a significantly larger area than the area in which project works are proposed to take place.

Figure 5.1, Figure 5.2 and Figure 5.3 present the tracks of military vessels recorded on AIS in January and July 2018, July 2022 and January 2023, and January and July 2024, respectively.

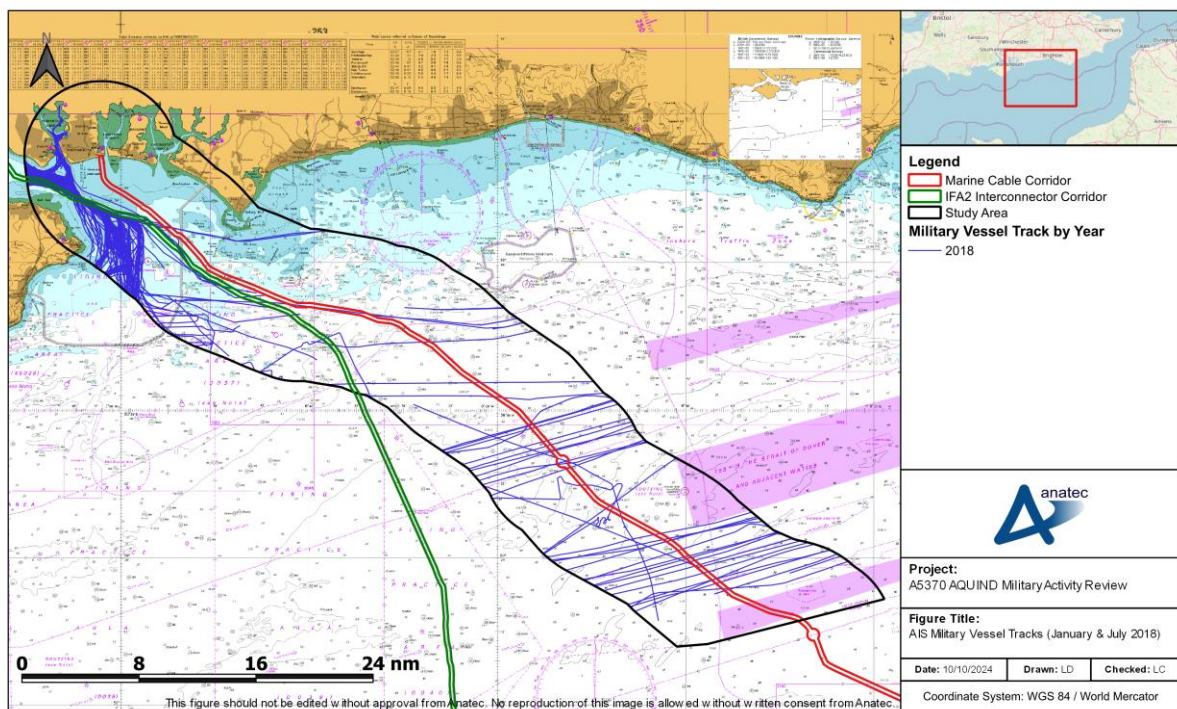


Figure 5.1 AIS Military Vessel Tracks (January & July 2018)

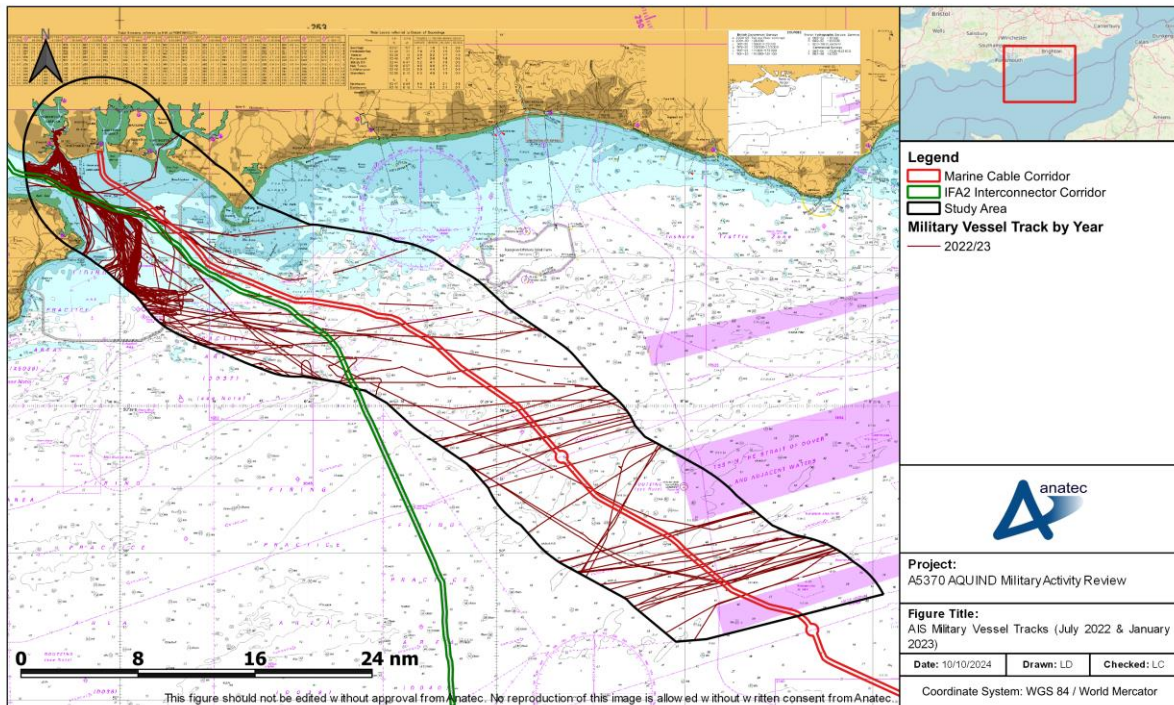


Figure 5.2 AIS Military Vessel Tracks (July 2022 & January 2023)

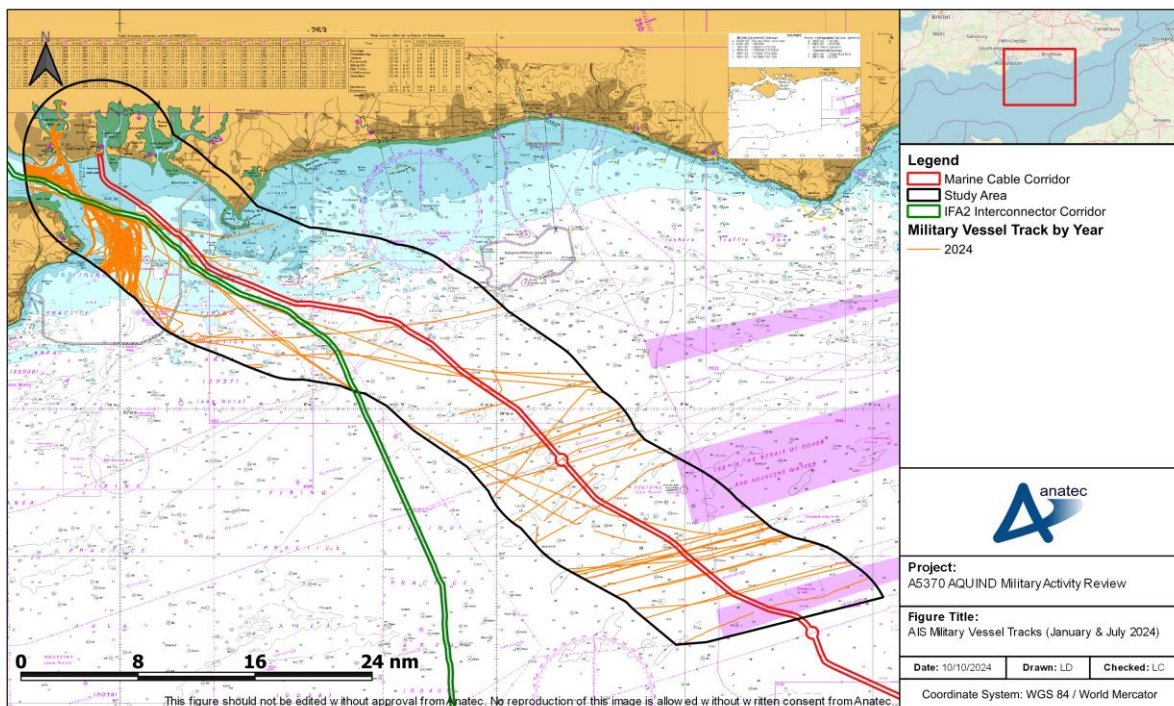


Figure 5.3 AIS Military Vessel Tracks (January & July 2024)

It can be seen that military vessel activity followed similar patterns across all of the data periods. The majority of vessels in this area were recorded to the west of the cable corridor, with relatively fewer heading east across the cable corridor.

The majority of military vessel activity in the area is associated with the HM Naval Base at Portsmouth, with a large volume of vessels recorded using the Solent and off the east coast of the Isle of Wight.

Military vessels were also recorded transiting further offshore in the Channel, with vessels recorded in both lanes of the Traffic Separation Scheme (TSS) in the Strait of Dover and Adjacent Waters. Military vessels around the Solent, Portsmouth and the Isle of Wight were typically UK Ministry of Defence vessels, while vessels recorded further offshore were associated with a variety of European nations such as Germany, France, Belgium and Norway.

The areas in which military vessel activity was recorded were similar across all years of data reviewed. Figure 5.4 presents the density of military vessel activity over the six months of data, based on vessel tracks intersecting a grid of 500m x 500m cells.

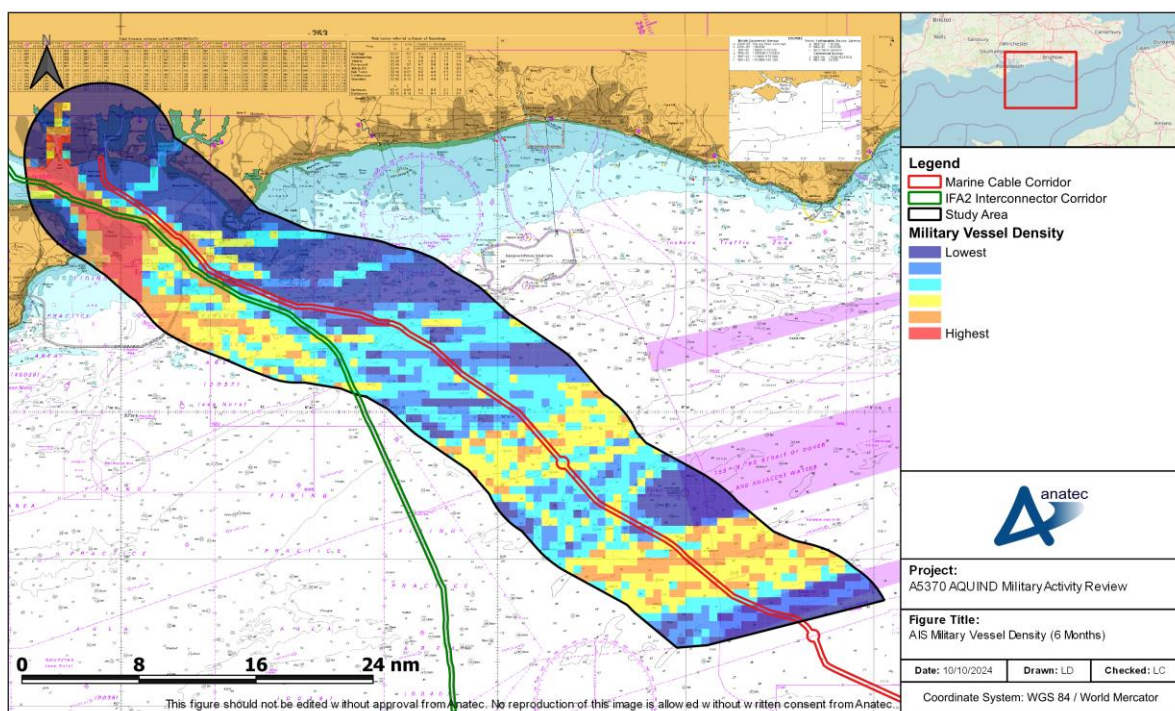


Figure 5.4 AIS Military Vessel Density (Six Months)

The highest density areas of military vessel activity were around the east coast of the Isle of Wight and on approach to Portsmouth Harbour. Moderate levels of activity were also highlighted in the Channel associated with the TSS lanes, and intersecting the cable corridor to the east of the Isle of Wight.

Military vessel activity in the nearshore area of the cable corridor is presented in Figure 5.5.

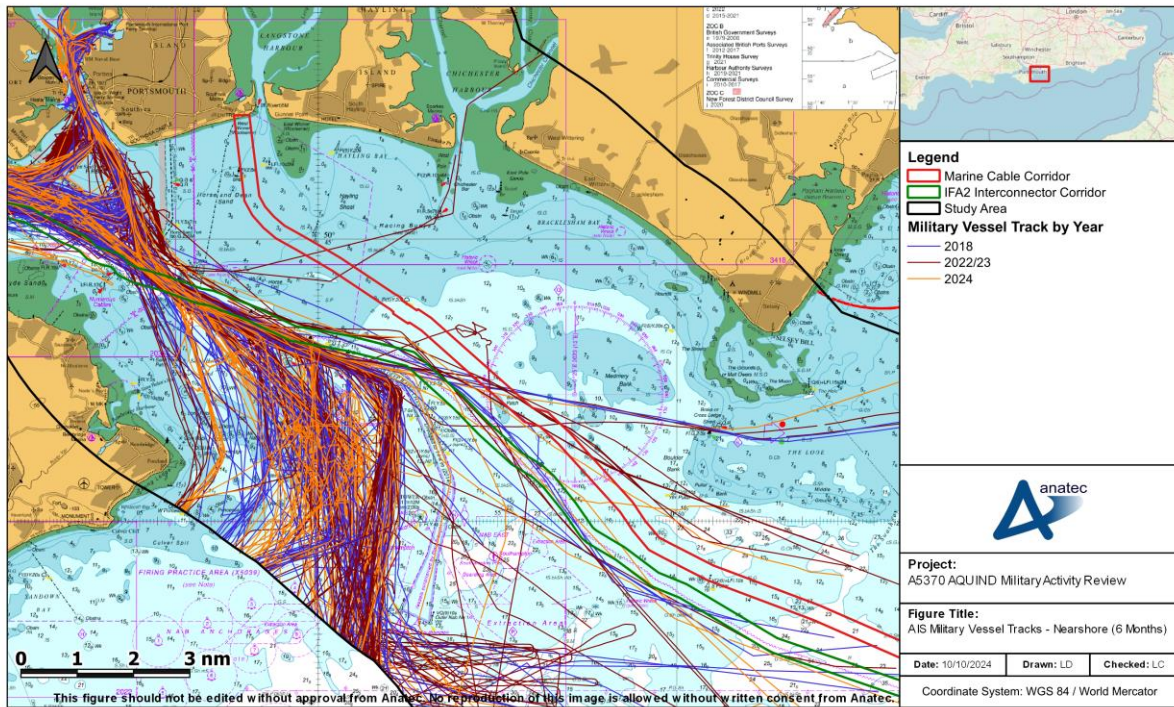


Figure 5.5 AIS Military Vessel Tracks - Nearshore (Six Months)

Vessel activity was most common 1nm or more to the west of the cable corridor, associated with vessels entering and exiting Portsmouth and the Solent. A smaller number of vessels were recorded crossing the cable corridor and in the nearshore area. One 21m patrol vessel was recorded crossing the cable corridor while making a round trip between Chichester Harbour and Portsmouth Harbour in July 2023.

The numbers of military vessels recorded on AIS during each month within the study area and intersecting the cable corridor are presented in Figure 5.6. It is noted that military vessels alongside within Portsmouth Harbour have been excluded from the analysis.

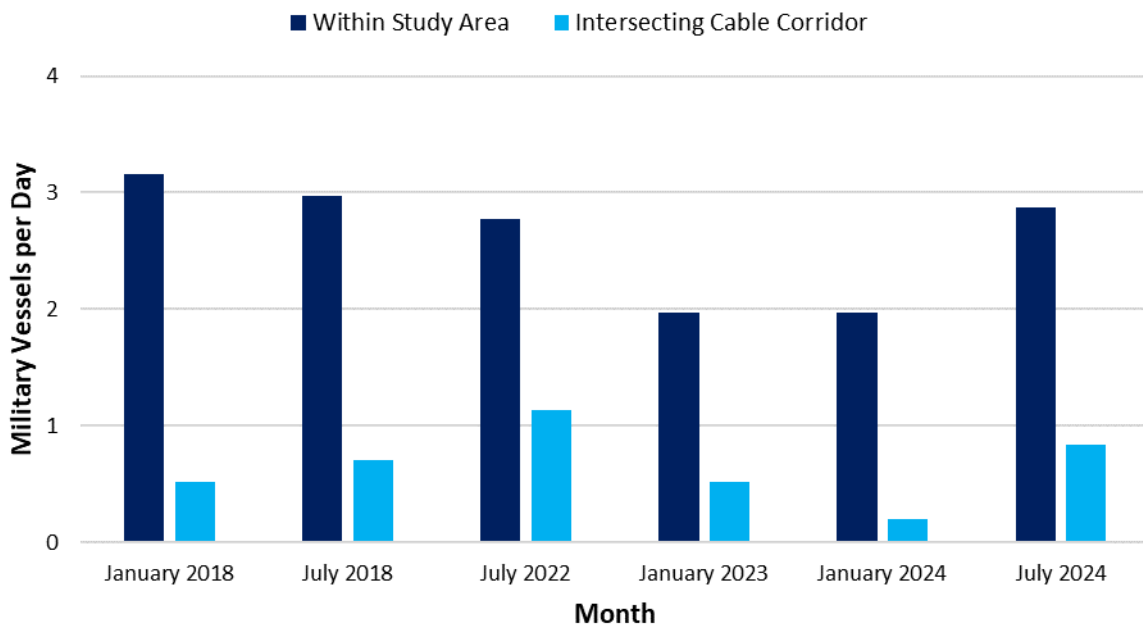


Figure 5.6 Average Military Vessels Recorded on AIS per Month

Over the six months, there was an average of two to three military vessels per day recorded within the study area, with January 2023 and 2024 being slightly lower, at two vessels per day.

On average, there was one military vessel recorded crossing the cable corridor every one to two days, with July typically seeing more vessel crossings than January in each year. Of the vessels crossing the cable corridor, approximately 15% of these were recorded crossing in nearshore areas (between approximately KP0 and KP45), i.e. there were 121 vessels crossing the cable corridor between KP0 and KP45 during the six months analysed. Vessels crossing the cable corridor in nearshore areas were typically 21m Archer Class patrol boats, however a 91m Echo Class vessel was recorded crossing the cable corridor twice in a single day in January 2023.

Vessels crossing further offshore were much more varied, with a number of different vessel sizes and nationalities.

6 Discussion of Impacts

Within the impact assessment included within the Environmental Statement, the impacts within the TSS and on the approaches to Portsmouth Harbour associated with implementing advisory safe passing distances around the cable lay vessel and an anchored cable lay barge were considered to be of Tolerable significance for all vessels. Given military vessels on approach to Portsmouth and the Solent were typically recorded passing at least 1nm from the cable corridor, it is not expected that there is a greater risk to military vessels from these impacts compared with other vessel types, noting that not all military vessels are required to broadcast on AIS at all times.

Based on the available information (noting the limitations with publicly available military data), the baseline environment where it concerns marine military activity within the study area has not materially changed. Therefore, based on the consultation responses received at the time of application (Section 2), the previous assessment of the impacts of the Proposed Development as Broadly Acceptable (low risk; not significant) remains appropriate (see section 13.6.1.26, [APP-128]). Additionally, the Environmental Statement of the IFA2 interconnector, which is in close proximity and is similar to the Proposed Development, did not identify significant impacts on military activities (Ref. vii), noting that the IFA2 interconnector passes through a greater extent of the military practice areas, and is crossed more frequently by military vessels associated with Portsmouth. This is consistent with the feedback received by the Proposed Development from the MoD prior to the application, or during the examination.

7 References

i United Kingdom Hydrographic Office (UKHO) (2022). Admiralty Siling Directions NP27, Channel Pilot.

ii KHM Portsmouth (2023). Direction 4/23

ht [REDACTED]
[REDACTED]

iii KHM Portsmouth (2023). Direction 12/23

[REDACTED]
[REDACTED]

iv KHM Portsmouth (2024). LNtM 13/24. Available at:

[REDACTED]
[REDACTED]

v KHM Portsmouth (2024). LNtM 07/24. Available at:

[REDACTED]
[REDACTED]

vi KHM Portsmouth (2024). LNtM 06/24. Available at:

[REDACTED]
[REDACTED]

vii IFA2 UK Offshore Development Environmental Statement (2016). Available at:

[REDACTED]
[REDACTED]
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