



Immingham Green Energy Terminal

TR030008

Volume 1

8.6 Applicant's Schedule of Changes to draft Development Consent Order

Planning Act 2008

Regulation 5(2)(q)

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009 (as
amended)

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended)

Immingham Green Energy Terminal Development Consent Order 2023

8.6 Applicant's Schedule of Changes to the draft Development Consent Order

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Revision 3	3 May 2024	Deadline 3
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1 Introduction

1.1 Purpose of this document

1.1.1 This document has been prepared by Associated British Ports (the "Applicant") to set out the changes made to the draft development Consent Order ("dDCO") from the version submitted to the Planning Inspectorate ("PINS") on 21 September 2023 as part of the application for development consent **[APP-006]**.

1.1.2 In preparing this document, the Applicant has had regard to Procedural Decision 10 (*Amendments to the dDCO*) as listed in Annex F of the Rule 6 Letter dated 8 January 2024 **[PD-005]** and paragraph 14 (*Providing a DCO audit trail*) of PINS's Advice Note Fifteen: Drafting Development Consent Orders. The document is also prepared and submitted in accordance with Regulation 5(2)(q) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 as a document which ABP considers necessary to support the Application.

1.1.3 This document is therefore submitted together with:

(a) A revised dDCO (**TR030008/APP/2.1 (Revision 4)**) (clean); and

(b) A tracked version of the dDCO showing all changes as between the previously submitted version of the dDCO at Deadline 1 **[REP1-016]** and the new Revision 4 (**TR030008/APP/2.1 (Revision 4)**).

(c) A consolidated tracked version showing all changes as between the original version of the dDCO **[APP-006]** and Revision 3 **[REP1-016]** and the new Revision 4 (**TR030008/APP/2.1 (Revision 4)**).

1.1.4 This document is a 'live' document and will be further updated (on a consolidated basis) by the Applicant at each Deadline in the Examination in which a new revision of the dDCO is submitted.

1.2 Overview of changes made at Procedural Deadline A Deadline 1 (6 February 2024)

1.2.1 Revision 2 of the draft DCO **[PDA-006]** was submitted at Procedural Deadline A.

1.2.2 Table 1 lists the changes made by the Applicant shown in Revision 2 of the draft DCO.

1.3 Overview of changes made at Deadline 1 (13 March 2024)

1.3.1 Revision 3 of the draft DCO (**TR030008/APP/2.1 Revision 3**) was submitted at Deadline 1.

1.3.2 Table 2 lists the changes made by the Applicant shown in Revision 3 of the draft DCO.

1.4 Overview of changes made at Deadline 3 (3 May 2024)

1.4.1 Revision 4 of the draft DCO (**TR030008/APP/2.1 Revision 4**) was submitted at Deadline 3.

1.4.2 Table 3 lists the changes made by the Applicant shown in Revision 3 of the draft DCO.

2 Schedule of Changes as updated at Procedural Deadline A (6 February 2024)

Table 1: Schedule of Changes to Revision 2 of the dDCO [PDA-006]

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Preamble	Updated to reflect reference to a Panel of five members, as appointed by the Planning Inspectorate on 31 October 2023.	<p>The application has been examined by {a panel of 5 members (“the Panel”)}-OR-[the single appointed person], pursuant to [Chapter 2]/[Chapter 3] of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(e).</p> <p>The [Panel]-OR-[the single appointed person], having examined the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with [section 74(2)]/[section 83(1)] of the 2008 Act, made a report and recommendation to the Secretary of State.</p> <p>The Secretary of State has considered the representations made and not withdrawn and the report and recommendation of [the Panel]-OR-[single appointed person], taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(d) and, as a National Policy Statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.</p>	Revision 2
2.	Article 2, Interpretation	Minor typographical error	“the 1847 Act” means the Harbours, Docks, and Piers Clauses Act 1847(e);	Revision 2
		“The harbour master” revised to reflect wording provided by the Statutory Conservancy and Navigation Authority.	“the harbour master” means the harbour master appointed by the Humber Conservancy Commissioners for the purposes of the Humber Conservancy Acts 1852 to 1951 and the Humber Harbour Reorganisation Scheme 1966 Confirmation Order 1967 and includes the harbour master’s deputies and assistants; for the Statutory Conservancy and Navigation Authority;	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		Definition of "Natural England" deleted as it is noted made DCOs do not define statutory bodies.	"Natural England" means the advisor to the Government for the natural environment in England;	Revision 2
		"the Statutory Conservancy and Navigation Authority" added to reflect wording provided by the Statutory Conservancy and Navigation Authority.	<u>"the Statutory Conservancy and Navigation Authority" means the statutory conservancy and navigation authority for the River Humber (as successor to the Conservancy Commissioners established under the Humber Conservancy Act 1868) and including in its role as competent harbour authority and local lighthouse authority for its statutory area;</u>	Revision 2
		Definition of "vessel" revised to reflect that waterborne structures are not relevant in this case.	"vessel" means every description of vessel or waterborne structure , however propelled; or moved or constructed , and includes <u>a</u> displacement and non-displacement craft, <u>a</u> personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over or placement in water and which is at the time in, on, or over water;	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
3.	Article 4, Incorporation of the 1847 Act	The number of provisions of the 1847 Act incorporated into the dDCO has been reduced from the list adopted from previous made orders as it has been ascertained that a number of those provisions have since been repealed. For further detail in respect of Article 4 please see paragraphs 7.17 – 7.21 of the Explanatory Memorandum (TR030008/APP/2.2 (Revision 2)). Reference in section 69 of the 1847 Act to “level 4 on the standard scale” is reduced to being read as to “level 3 on the standard scale”, so that incorporation of the provision complies with section 120(8) and paragraph 32B of Schedule 5 of the 2008 Act.	<p>4. —(1) The 1847 Act, except sections 65 to 13, 16 to 23, 25, 4847 to 50, 77 to 80, 8485 to 90, 97 to 99102 and 101104, so far as applicable for the purposes of and not inconsistent with this Order, is incorporated with and forms part of this Order, <u>subject to the modifications set out in sub-paragraph (2).</u></p> <p>(2) For the purposes of the 1847 Act, as so incorporated—</p> <ul style="list-style-type: none"> (a) the expression “the special Act” means this Order; (b) the expressions “the Promoters of the undertaking” and “the undertakers” have the meaning given to “the Company” in article 2(1) of this Order; (c) the expression “the harbour, dock or pier” means the area of jurisdiction; (d) the expression “the harbour master” so far as applicable to the authorised project, has the meaning given to “the dock master” in article 2(1) of this Order; (e) the meaning given to the word “vessel” by section 3 of the 1847 Act is substituted by that given to “vessel” in article 2(1) of this Order; (f) section 53 of the 1847 Act is not to be construed as requiring the dock master to serve on the master of a vessel a notice in writing of his directions but such directions may be given orally or otherwise communicated to such master; <u>(g) reference in section 69 of the 1847 Act to “level 4 on the standard scale” is to be read as to “level 3 on the standard scale”;</u> <u>(h) (g) section 33 of the 1847 Act, as so incorporated, must not be construed as derogating from the power of the dock master (which has the meaning given in article 2(1) of this Order) to discontinue any part of its undertaking; and</u> <p><u>(i) (h) any requirement to comply with a notice or direction given by the harbour master is to be construed as including a requirement that, in complying with such notice or direction, a person who is subject to the notice or direction must also comply with any relevant notice or direction given by the dock master or the harbour master (which both have the meaning given in this Order) in the exercise by either or both of them of any function conferred by or under any enactment (including this Order).</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
4.	Article 6, Extent of Certain Works	The amendments have been made in order to provide further clarification regarding the location of the dredged pocket, now shown indicatively in the Works Plans (document reference AS/002), further to the request of the Examining Authority at Box 30 of the S55 Checklist and first referenced in the applicant's letter of 3 January 2024 to Mr Karl-Jonas Johansson of the Planning Inspectorate.	<p>6. —(1) is <u>Subject to paragraph (2) , in</u> carrying out the authorised project comprising the works numbered in Part 1 (authorised development) in Schedule 1 (authorised project) the undertaker must, where the works plans set out the lateral extent of the area in which the numbered work comprised in the authorised project is to be located, carry out, maintain, use or decommission the numbered work within the lateral extent of the area set out for it on those plans.</p> <p><u>(2) For the purposes of paragraph (1), the lateral extent of the area for the dredged pocket described in paragraph 1(b) of Part 1 (authorised development) of Schedule 1 (authorised project) is not to be taken as the area set out on the works plans, which is shown on those plans for indicative purposes only, and the area within which the dredged pocket described in paragraph 1(b) of Part 1 (authorised development) of Schedule 1 (authorised project) must be carried out is instead to be taken from time to time to be the area bounded by the grid coordinates specified in paragraph 5(2) of the deemed marine licence or such other area for the dredged pocket as is specified in any marine licence granted or varied pursuant to the 2009 Act (including any variation of the deemed marine licence).</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
5.	Article 29, Application of the 1981 Act	Following review of footnoting, appropriate additions have been included	<p>29. → <u>(1)</u> The 1981 Act applies as if this Order were a compulsory purchase order.</p> <p>(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.</p> <p>(3) In section 1 (application of Act) for subsection (2) substitute—</p> <p style="padding-left: 40px;">(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order. .</p> <p>(4) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.</p> <p>(5) Section 5A (time limit for general vesting declaration) is omitted(a).</p> <p>(6) In section 5B(1) (extension of time limit during challenge)(b) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 23 (time limit for exercise of powers to acquire land compulsorily or to possess land temporarily) of the Associated British Ports (Immingham Green Energy Terminal) Order 202**”.</p> <p>(7) In section 6 (notices after extension of declaration)(c), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.</p> <p>(8) In section 7 (constructive notice to treat)(d), in subsection (1)(a) omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.</p> <p>(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) (e), for paragraph 1(2) substitute—</p> <p><u>(a)</u> 1981 c. 66. Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016. <u>(b)</u> As inserted by section 202(2) of the Housing and Planning Act 2016. <u>(c)</u> As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016. <u>(d)</u> 1981 c. 66. Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22). <u>(e)</u> As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).</p>	Revision 2

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6.	Article 44, power to appropriate (paragraph 1)	The appropriate defined term to which paragraph (1) should be referring is “area of jurisdiction”, emphasis added, and this omission has been corrected.	44.—(1) (1) Regardless of anything in section 33 of the 1847 Act (harbour, dock and pier to be free to the public on payment of rates) or any other enactment, the dock master may from time to time set apart and appropriate any part of the <u>area of</u> jurisdiction for the exclusive or preferential use and accommodation of any trade, person, vessel or goods or any class of trader, vessel or goods, subject to the payment of such charges and to such terms, conditions and regulations as the dock master may think fit.	Revision 2
7.	Article 45, Powers to dredge (paragraph 1)	The paragraph has been revised to reflect that the dDCO is authorising a capital dredge as part of construction of the authorised project (see paragraph 1(b) of Work No. 1 of Part 1 (Authorised Development) of Schedule 1 (Authorised Project)).	45.—(1) (1) The Company may dredge, deepen, scour, cleanse, alter and improve the river bed and foreshore within any part of the Order limits situated within the River Humber as may be required for the purpose of <u>constructing</u> , maintaining and operating the authorised project.	Revision 2
8.	Article 45, Powers to dredge (paragraph 3)	The paragraph has been revised to make clearer the intent of the original provision that the deemed marine licence comprised in the dDCO sets out terms required by the MMO for disposal of materials dredged, i.e. no further approval is required. See paragraphs 4(1) and 4(3) of Schedule 3 (Deemed marine licence) of the dDCO.	(3) No materials dredged under the powers of this Order may be disposed of in the UK marine area except in accordance with an approval from the MMO under the deemed marine licence or under any other marine licence granted by the MMO.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
9.	Article 46, Benefit of Order (paragraphs 10, 12 and 13)	<p>The MMO's relevant representation states that it does not accept that the deemed marine licence at Schedule 3 (Deemed marine licence) of the dDCO may be transferred along with the remainder of the dDCO of which the deemed marine licence is a part. The MMO asserts that such transfer should only take place by way of section 72(7)(a) of the Marine and Coastal Access Act 2009 as if the MMO had granted the deemed marine licence (which is not the case - the Secretary of State is deeming the grant of the deemed marine licence). The MMO has requested the following addition: "(8) For the avoidance of doubt sections 72(7) and (8) of the 2009 Act shall continue to apply to all parts of the deemed marine licence".</p> <p>It is well established in development consent orders made pursuant to the Planning</p>	<p>(10) An undertaker with the benefit of any provision of this Order may pursuant to this paragraph—</p> <p>(a) transfer to any person any or all of the benefit of the provision <u>(excluding the deemed marine licence)</u> and such related statutory rights as may be agreed between the undertaker and that person;</p> <p>(b) grant to any person for a period agreed between the undertaker and that person any or all of the benefit of the provision <u>(excluding the deemed marine licence)</u> and such related statutory rights as may be so agreed between the undertaker and that person,</p> <p><u>(12) An undertaker with the benefit of any provision of the deemed marine licence may pursuant to this sub-paragraph, with the consent of the Secretary of State—</u></p> <p><u>(a) transfer to any person any or all of the benefit of the provision and such related statutory rights as may be agreed between the undertaker and that person;</u></p> <p><u>(b) grant to any person for a period agreed between the undertaker and that person any or all of the benefit of the provision and such related statutory rights as may be so agreed between the undertaker and that person,</u></p> <p><u>but the Secretary of State must consult the MMO before giving such consent to the transfer or grant to another person of the benefit of the provision and such related statutory rights.</u></p> <p><u>(13) Paragraph (12) does not prevent an application to the MMO pursuant to section 72(7) of the 2009 Act to transfer the deemed marine licence to another person and vary it accordingly.</u></p>	Revision 2

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		<p>Act 2008, where there is to be transfer of a marine licence deemed to be granted by the Secretary of State pursuant to such an order, that approval is needed from the Secretary of State, who deemed the grant, with the MMO often specified as a consultee on the matter. This approach has evolved because of the imperative for limiting the number of duplicated regimes engaged in the context of nationally significant infrastructure projects. It may also be because, it appears to ABP, that there is no scope for appealing an MMO decision not to issue a notice under section 72(7) of the Marine and Coastal Access Act 2009 to transfer a marine licence (as no notice will have been issued to appeal to the First-tier Tribunal, and in any event the Secretary of State is the more appropriate arbiter of such matters having determined the original application for development consent). The applicant has therefore instead incorporated</p>		

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		paragraphs 3 and 5 of article 6 (Benefit of the Order) of the Norfolk Vanguard Offshore Wind Farm Order 2020 into the draft DCO, which provide for Secretary of State approval of transfers of the benefit of the deemed marine licence, following consultation with the MMO. To reflect the MMO's comment, the applicant has also included clarification that the deemed marine licence may also, as an alternative, be transferred pursuant to a variation notice under section 72(7) of the Marine and Coastal Access Act 2009.		
10.	Article 49, Provision against danger to navigation	The amendments reflect the request of the Statutory Conservancy and Navigation Authority and the deletion of unnecessary wording. The existing wording recognised that in the context of a criminal offence for breach of a term of a development consent order the undertaker could not be held to the differing requirements of three different statutory bodies for the same matter. All three bodies must	49. In case of damage to, or destruction or decay of, a tidal work or any part of it, the undertaker must as soon as reasonably practicable notify Trinity House and the statutory harbour authority or Humber <u>and the Statutory Conservancy Commissioners and Navigation Authority</u> (as relevant) and must lay down such buoys, exhibit such lights, and take such other steps for preventing danger to navigation, as Trinity House and the statutory harbour authority or Humber conservancy commissioners (as relevant) or, failing agreement between them, the statutory harbour authority or Humber <u>Statutory Conservancy Commissioners and Navigation Authority</u> (as relevant) may from time to time direct.	Revision 2

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		be notified and will in practice ensure consistency in their requirements or the undertaker can only be held to the requirements of one of them. There was therefore no need to refer to disagreements between these bodies.		
11.	Article 50, Lights on tidal works during construction	The amendments have been made for the same reasons as Article 49.	<p>50. The undertaker must at or near—</p> <ul style="list-style-type: none"> (a) a tidal work, including any temporary work; or (b) any plant, equipment or other obstruction placed in connection with any authorised project within the area of seaward construction activity in the River Humber, <p>during the whole time of their construction, alteration, replacement or extension, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House and the statutory harbour authority or Humber Conservancy Commissioners (as relevant) or, failing agreement between them, the statutory harbour authority or Humber<u>Statutory</u> Conservancy Commissioners<u>and Navigation Authority</u> (as relevant) may, may from time to time direct.</p>	Revision 2
12.	Article 51, Permanent light on tidal works	The amendments have been made for the same reasons as Article 49.	<p>51. After a completion of a tidal work, the undertaker must at the outer extremity of the tidal work exhibit every night from sunset to sunrise such lights, if any, and take such steps for the prevention of danger to navigation as Trinity House and the statutory harbour authority or Humber Conservancy Commissioners (as relevant) or, failing agreement between them, the statutory harbour authority or Humber<u>Statutory</u> Conservancy Commissioners<u>and Navigation Authority</u> (as relevant) may from time to time direct.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
13.	Article 62, Arbitration	<p>Further to a request by the MMO for exemption from arbitration provisions under the dDCO, paragraph 2 was inserted to mirror Articles 84(2) and (4) (Arbitration) of the Sizewell C (Nuclear Generating Station) Order 2022 in clarifying that it is not appropriate that arbitration should apply to the provisions of the 1847 Act incorporated in the Order by article 4 (Incorporation of the 1847 Act), Trinity House or any matter for which the consent or approval of the Secretary of State or the MMO is required under the Order. The Statutory Conservancy and Navigation Authority has been added to the list of exemptions at its request. These bodies consider it inappropriate to be subject to arbitration and the applicant has no issue with the position. The 1847 Act anticipates its own enforcement mechanisms, as summarised at paragraphs 7.17 – 7.21 of the Explanatory Memorandum (document</p>	<p>62.—(1) Subject to article 63 (procedure regarding certain approvals, etc.) and except where otherwise expressly provided for in this Order or unless otherwise agreed between the parties, any difference under any provision of this Order must be referred to and settled in arbitration in accordance with the rules set out in Schedule 16 (arbitration rules) of this Order, by a single arbitrator to be agreed between the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.</p> <p><u>(2) This article does not apply to—</u></p> <p><u>(a) the provisions of the 1847 Act incorporated in this Order by article 4 (incorporation of the 1847 Act);</u></p> <p><u>(b) Trinity House in the exercise of its statutory functions;</u></p> <p><u>(c) any matter for which the consent or approval of the Secretary of State, the Statutory Conservancy and Navigation Authority or the MMO is required under any provision of this Order.</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		reference TR030008/APP/2.2 (Revision 2)) and, as evidenced by the Sizewell C precedent, it is not appropriate to introduce Secretary of State governed arbitration to provisions aimed at the expeditious and safe ongoing management of a harbour.		
14.	Article 63, Procedure Regarding Certain Approvals (Paragraph (5)(b))	The addition has been made at the request of the Statutory Conservancy and Navigation Authority, which considers it appropriate to be excluded from operation of Schedule 17 (procedure regarding certain approvals, etc.) of the dDCO.	<p><u>(5) Schedule 17 (procedure regarding certain approvals, etc.) does not apply</u></p> <p><u>(a)</u> in respect of any consents, agreements or approvals contemplated by the provisions of Schedule 14 (protective provisions) or any difference or dispute under article 20(7) (protective works) to which, in each case, article 62<u>62</u> (arbitration) instead applies; <u>or</u></p> <p><u>(b)</u> <u>in respect of the Statutory Conservancy and Navigation Authority.</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
15.	Schedule 1, Authorised Project, Part 1, Authorised Development, (Paragraph 1(a) and (b), Work No. 1))	Paragraph 1(a)(ii) has been revised to clarify that the supporting jetty topside infrastructure should include shelters. The depth restriction for the capital dredge has been removed from the description of the work in question because it is more properly a condition of the deemed marine licence, as is the case at paragraph 4(1) of Part 1 (General) of Schedule 3 (Deemed Marine Licence) of the dDCO.	<p>Work No. 1</p> <p>1. Within the area shown on sheets 1, 2 and 3 of the works plans as Work No. 1, a multi-user marine terminal for the import and export of bulk liquids including—</p> <p>(a) Work No. 1a, within the area shown as such, being—</p> <p>(i) an open piled approach jetty leading to a jetty head with a single berth with loading and unloading platforms and associated dolphins, fenders and walkways; and</p> <p>(ii) supporting jetty topside infrastructure including marine loading arms, pipes, valves, pipe racks and other process equipment, roadways, footways, maintenance and access platforms, lighting infrastructure, utilities (including electrical systems, firewater systems, communication systems, security systems and potable water supply), ship access equipment, electrical rooms, control rooms, <u>shelters</u>, toxic refuge rooms and other berth furniture;</p> <p>(b) a dredged pocket to create a berthing pocket with a depth of up to 14.5 metres below chart datum;</p>	Revision 2
16.	Schedule 2, Requirements, (paragraph 4, Detailed Approval)	Further to comments from the Environment Agency, the Requirement has been reworded to remove reference to “commence”, which is not necessary in this instance.	<p>Detailed approval</p> <p>4. — zz) Construction must not commence above the ground floor slab (1) No part of—</p> <p>(a) any security building within Work No.2;</p> <p>(b) any control building within Work No. 5; or</p> <p>(c) any control room and workshop building, security and visitor building, contractor building and warehouse within Work No. 7,</p> <p><u>may be constructed above its ground floor slab</u> until details of the external materials to be used in the construction of that building have been submitted to and approved by the relevant planning authority.</p>	Revision 2

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17.	Schedule 2, Requirements, (paragraph 5(2), Phasing)	The Requirement has been reworded to remove reference to "commence", which is not necessary in this instance.	<p>Phasing</p> <p>5. —aaa <u>(1)</u> The ammonia storage tank within Work No. 3a and the hydrogen production units within Work No. 5 and Work No. 7 must not be brought into operational use until the jetty forming part of Work No. 1 is available for use.</p> <p>(2) No <u>The construction of no</u> more than two hydrogen production units and no more than one hydrogen liquefier unit may be commenced <u>begin</u> until a plan setting out the phase of works relating to that <u>any</u> additional hydrogen production unit or hydrogen liquefier unit has been submitted to and approved by the relevant planning authority.</p>	Revision 2
18.	Schedule 2, Requirements, (paragraph 6(1), Construction environmental management plan)	Erroneous reference to the MMO, which does not have jurisdiction outside of the UK marine area in any event, was identified by the Environment Agency which requested it be substituted as consultee in this instance.	<p>6. —bbb <u>(1)</u> No works forming part of Work No. 1 outside of the UK marine area may be commenced until a construction environmental management plan for that part of the works has been submitted to and approved by the relevant planning authority, following consultation with the MMO <u>Environment Agency</u> on matters related to its function; and it is agreed that any such construction environmental management plan and the construction environmental management plan submitted pursuant to paragraph 8 of Part 2 (conditions applying to all licensable activities) of Schedule 3 (deemed marine licence) may be comprised in the same document.</p>	Revision 2
19.	Schedule 2, Requirements, (paragraph 8(1), Highway works)	Further to comments from the Environment Agency, the Requirement has been reworded to remove reference to "commence", which is not necessary in this instance.	<p>8. —ddd <u>(1)</u> Before the commencement <u>construction</u> of any permanent access or permanent alteration to an existing means of access to a highway used by vehicular traffic in order to provide access to Work No. 2, Work No. 3, Work No. 5 or Work No. 7 <u>begins</u>, written details of the design and layout of such means of access or alteration must be submitted to and approved by the relevant planning authority following consultation with the highway authority on matters related to its functions.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
20.	Schedule 2, Requirements, (paragraphs 15(1) and (2), Contaminated land)	The provisions have been revised to make clearer that consultation with the Environment Agency by the relevant planning authority is to take place following submission and not before, in the usual manner.	<p>15.—kkk(1) No below ground works comprised in any part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7 may be undertaken until a written remediation strategy applicable to that part to deal with any contamination of that part which is likely to cause significant harm to persons or pollution of controlled waters or the environment has <u>been submitted to and approved by the relevant planning authority</u>, following consultation with the Environment Agency on matters related to its function, been submitted to and approved by the relevant planning authority.</p> <p>(2) In the event that any unexpected contamination is discovered during the construction of any part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7, the part of the works to which the contamination relates must cease until a site investigation and assessment report applicable to that part and, if necessary, a remediation strategy to deal with any contamination which is likely to cause significant harm to persons or pollution of controlled waters or the environment has <u>been submitted to and approved by the relevant planning authority</u>, following consultation with the Environment Agency on matters related to its function, been submitted to and approved by the relevant planning authority.</p>	Revision 2
21.	Schedule 2, Requirements, (paragraph 18(1) and (2), Decommissioning environmental management plan)	The Environment Agency requested it be added as a consultee. "Outline decommissioning environmental management plan" has already been defined in paragraph 1 (Interpretation).	<p>18.—nnn(1) Prior to the decommissioning of (in each case) the entirety of Work No. 2 (except the jetty access road), Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7, a decommissioning environmental management plan for that part of the authorised project must be submitted to and approved by the relevant planning authority, <u>following consultation with the Environment Agency on matters related to its function.</u></p> <p>(2) Any decommissioning environmental management plan submitted and approved under sub-paragraph (1) must be in general accordance with the outline decommissioning environmental management plan contained in appendix 2.F of the environmental statement.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
22.	Schedule 3, Deemed Marine Licence, Part 1 (General), (paragraph 1, Interpretation)	All new and revised definitions reflect requests in the relevant representation of the MMO. This includes the MMO's preference globally that licence holder" be amended to "undertaker".	<p>1. see <u>(1)</u> In this Schedule—</p> <p>"the 2008 Act" means the Planning Act 2008;</p> <p>"the 2009 Act" means the Marine and Coastal Access Act 2009(a);</p> <p>"the 2017 Regulations" means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017;</p> <p><u>"2023 sediment sampling plan" means—</u></p> <p><u>(a) the document of that name identified in the table at Schedule 15 (documents and plans to be certified) of the Order and which has been certified by the Secretary of State as the 2023 sediment sampling plan for the purposes of the Order, which sets out—</u></p> <ul style="list-style-type: none"> <u>(i) a detailed dredging methodology;</u> <u>(ii) dredge locations;</u> <u>(iii) dredge amounts (total and annual, if applicable);</u> <u>(iv) dredge depths;</u> <u>(v) duration of dredging activities;</u> <u>(vi) whether the dredge is a capital dredging activity or a maintenance dredging activity; and</u> <u>(vii) specific gravity of the material or material type; and</u> <p><u>(b) any sediment sampling analyses submitted to the MMO related to the plan to which sub-paragraph (a) refers prior to its expiry;</u></p> <p>"consolidated" dredged materials include <u>mean materials including</u> glacial clay with a diameter of less than 31.25 micrometres and gravel with a diameter of at least 2 and less than 64 millimetres;</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>“license holder” means has the meaning given to “undertaker” in article 2 (interpretation) of the Order and any agent, contractor or sub-contractor acting on its behalf;</p> <p>“licensable activity” means an activity licensable under section 66 of the 2009 Act;</p> <p>“licensed activity” means any activity authorised in paragraph 3 of this Schedule;</p> <p>“maintenance dredge” means a dredge undertaken to keep channels, berths and other areas at their designed depths, involving removing recently accumulated sediments such as mud, sand and gravel to a level that is not lower than it has been at any time during the past 10 years <u>and “maintenance dredging” is to be construed accordingly;</u></p> <p>“marine piles” means piles that will be in a free water condition during construction;</p> <p>“marine written scheme of investigation” means the marine archaeological written scheme of investigation contained in appendix 15.3 to the environmental statement;</p> <p><u>“further sediment sampling plan” means—</u></p> <p><u>(a) any further sediment sampling plan approved by the MMO in accordance with paragraph 9(2) of this Schedule which sets out—</u></p> <ul style="list-style-type: none"> <u>(i) a detailed dredging methodology;</u> <u>(ii) dredge locations;</u> <u>(iii) dredge amounts (total and annual, if applicable);</u> <u>(iv) dredge depths;</u> <u>(v) duration of dredging activities;</u> <u>(vi) whether the dredge is a capital dredging activity or a maintenance dredging activity; and</u> <u>(vii) specific gravity of the material or material type; and</u> <p><u>(b) any sediment sampling analyses submitted by the MMO related to the plan to which sub-paragraph (a) refers prior to its expiry;</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>“outline marine written scheme of investigation” means the outline marine archaeological written scheme of investigation contained in appendix 15B to the environmental statement;</u></p> <p>“Notice to Mariners” means any notice to mariners which may be issued by the Admiralty, Trinity House, the King’s harbour masters, government departments or harbour and pilotage authorities advising mariners of important matters affecting navigational safety;</p> <p>“the Order” means the Associated British Ports (Immingham Green Energy Terminal) Order 202*;</p> <p>“outline construction environmental management plan” means the document of that description certified under article 64 (certification of documents, public register, etc.)<u>name identified in the table at Schedule 15 (documents and plans to be certified) of the Order, and which has been certified by the Secretary of State as the outline construction environmental management plan for the purposes of the Order;</u></p> <p><u>“the Port of Immingham” has the meaning given in the Order;</u></p> <p>“relevant planning authority” has the meaning given in the Order;</p> <p>“the River Humber” means so much of the river Humber and the Humber<u>the tidal</u> estuary as is within the UK marine area<u>from its mouth at the Spurn Peninsula to its confluence with the rivers Ouse and Trent;</u></p> <p>“unconsolidated” dredged materials include <u>mean materials including</u> alluvial sand with a diameter of at least 62.5 micrometres and less than two millimetres, alluvial silt with a diameter of at least 31.25 and less than 62.5 micrometres and gravel with a diameter of at least 2 and less than 64 millimetres;</p> <p><u>“undertaker” has the meaning given to “undertaker” in article 2 (interpretation) of the Order;</u></p> <p>“vessel<u>vessels</u>” means every description of vessel or water borne structure, however propelled, or moved or constructed, and includes <u>a</u> displacement and non-displacement craft, <u>a</u> personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over or placement in water and which is at the time in, on, or over water; and</p>	

Immingham Green Energy Terminal
 Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
23.	Schedule 3, Deemed Marine Licence, Part 1 (General), (paragraph 2(4), Contacts)	Reflecting updates to Schedule 3, paragraph 2, concerning definition of "undertaker", reflecting the MMO's preference that it be referred to as "undertaker" rather than "licence holder"	(4) Unless otherwise stated in writing by the MMO, all notifications required by this licence must be sent by the licence holder <u>undertaker</u> to the MMO using MCMS.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
	Schedule 3, Deemed Marine Licence, Part 1 (General), (paragraph (3)(1) and (3)(2)(a)(iv), Licensed marine activities)	<p>Paragraph 1 has been revised to reflect the MMO's preference that it be referred to as "undertaker" rather than "licence holder"</p> <p>Paragraph 2 has been revised to clarify that the supporting jetty topside infrastructure should include shelters (and is also reflected at Paragraph 1(a)(ii) of Schedule 1 (Authorised Project, Part 1 (Authorised Development) of the dDCO).</p>	<p>3. —(1) <u>3. —(1)</u> Subject to the licence conditions in Part 2, this licence authorises the licence holder <u>undertaker</u> to carry out licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act which—</p> <ul style="list-style-type: none"> (a) form part of, or are related to, the authorised development; and (b) are not exempt from requiring a marine licence by virtue of any provision made under section 74 (exemption specified by order) of the 2009 Act. <p>(2) For the purposes of this licence "the authorised development" means the construction, operation and maintenance of a liquid bulk facility on the River Humber comprising—</p> <ul style="list-style-type: none"> (a) within the area shown as Work No.1a on the works plans— <ul style="list-style-type: none"> (i) an open piled approach jetty carrying on its surface a roadway, a footway, pipes, pipework and utilities and lighting, rising from ground level to cross over existing flood defence infrastructure and then extending from the shore in a north easterly direction connecting to a jetty head; (ii) a jetty head comprising structures including loading and unloading platforms with mechanical loading arms, two breasting dolphins with fenders, each with a gangway tower and eight mooring dolphins linked by walkways; (iii) two monopiles located in front of the jetty head or loading platform to provide fendering for smaller vessels; (iv) a jetty head building, a separate refuge building with attached office, water closet and external safety shower, an electrical building, <u>shelters</u>, pump housing and pump canister; (v) a jetty operations building located near the landside end of the jetty to house control room functions including switch room, operations room and welfare facilities; (vi) topside infrastructure installed on the jetty to load and unload vessels including marine loading arms, gangways, pipes, piping, valves and other process equipment, maintenance access roadways and access ramps; (vii) lighting infrastructure, utilities and electrical systems including firewater systems, communication systems and security systems; (viii) piling works and construction operations within the River Humber; 	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO															
24.	Schedule 3. Deemed Marine Licence, Part 1 (General), (paragraphs 4(3) (Licence to dredge and deposit) and paragraphs 5(1) and 5(2), (Details of licensed marine activities))	<p>The paragraphs have been revised to articulate their intended meaning more precisely: they are simply to act, for completeness, as an acknowledgment that the undertaker is already authorised to carry out maintenance dredging within the statutory area for the authorised development without the need for a marine licence, further to exemptions under the Marine and Coastal Access Act 2009 arising from the existing statutory powers of ABP, and to note that arisings from such dredging are governed (as they must be - not being subject to the exemption) by an existing marine licence (L/2014/00429).</p> <p>The paragraphs have also been revised to reflect the MMO's preference that it be referred to as "undertaker" rather than "licence holder".</p>	<p>4. —(1) <u>(1)</u> Subject to paragraph 5, the licence holder<u>undertaker</u> is permitted to undertake a capital dredge to a depth of 14.5 metres <u>below</u> chart datum (with an allowance for the tolerances of the dredging equipment) of the berth pocket, the grid coordinates for which are specified in paragraph 5(2).</p> <p>(2) The materials dredged may not exceed the approximate quantities and must be deposited at the locations set out in the following table—</p> <table border="1"> <thead> <tr> <th><i>Material</i></th> <th><i>Volume (m3)</i></th> <th><i>Specific gravity</i></th> <th><i>Maximum tonnage (wet tonnes)</i></th> <th><i>Disposal site</i></th> </tr> </thead> <tbody> <tr> <td>Unconsolidated</td> <td>3,900</td> <td>1.35</td> <td>5,265</td> <td>HU060</td> </tr> <tr> <td>Consolidated</td> <td>100</td> <td>2.26</td> <td>226</td> <td>HU056</td> </tr> </tbody> </table> <p>(3) The<u>It is acknowledged that pursuant to section 75 of the 2009 Act the undertaker does not need a</u> <u>marine licence holder is permitted</u> to carry out maintenance dredging within the statutory harbour authority area of the Port of Immingham for the purposes of maintaining the authorised development under section 75 of the 2009 Act<u>and that the disposal of dredged arisings for such maintenance dredging is permitted</u> in accordance with the existing marine licence.</p> <p>(4) Arisings of consolidated and unconsolidated materials from the capital dredge must be deposited at HU056 or HU060.</p> <p>(5) Arisings<u>It is noted that arisings</u> of unconsolidated materials from the maintenance dredge<u>dredging</u> must be deposited at HU060 in accordance with the existing marine licence.</p>	<i>Material</i>	<i>Volume (m3)</i>	<i>Specific gravity</i>	<i>Maximum tonnage (wet tonnes)</i>	<i>Disposal site</i>	Unconsolidated	3,900	1.35	5,265	HU060	Consolidated	100	2.26	226	HU056	Revision 2
<i>Material</i>	<i>Volume (m3)</i>	<i>Specific gravity</i>	<i>Maximum tonnage (wet tonnes)</i>	<i>Disposal site</i>															
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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO																											
			<p>5. ss3 <u>(1)</u> The grid coordinates within the UK marine area within which the licensee holder <u>undertaker</u> may carry out a licensed activity (save for the capital dredge and disposal of any arisings from such dredge to which paragraph 3(2)(b) refers) are specified below—</p> <table border="1" data-bbox="887 536 1921 815"> <thead> <tr> <th><i>Point reference</i></th> <th><i>Latitude</i></th> <th><i>Longitude</i></th> </tr> </thead> <tbody> <tr><td>1</td><td>53.622880</td><td>-0.169136</td></tr> <tr><td>2</td><td>53.623860</td><td>-0.167200</td></tr> <tr><td>3</td><td>53.627714</td><td>-0.157052</td></tr> <tr><td>4</td><td>53.630360</td><td>-0.155051</td></tr> <tr><td>5</td><td>53.628116</td><td>-0.145503</td></tr> <tr><td>6</td><td>53.624711</td><td>-0.147881</td></tr> <tr><td>7</td><td>53.624489</td><td>-0.153444</td></tr> <tr><td>8</td><td>53.621258</td><td>-0.164738</td></tr> </tbody> </table> <p>(2) No capital dredging may be carried out by the licensee holder <u>undertaker</u> other than within the area of the River Humber bounded by the grid coordinates specified below and identified as Work No. 1 on sheets 1, 2, 3 and 4 of the works plans—</p>	<i>Point reference</i>	<i>Latitude</i>	<i>Longitude</i>	1	53.622880	-0.169136	2	53.623860	-0.167200	3	53.627714	-0.157052	4	53.630360	-0.155051	5	53.628116	-0.145503	6	53.624711	-0.147881	7	53.624489	-0.153444	8	53.621258	-0.164738	
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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
25.	Schedule 3 , Deemed Marine Licence, Part 2 (Conditions applying to all licensable activities), (Paragraph 7, Notifications regarding licenced activities)	<p>The inserted timescale at paragraph 5 reflects the request of the MMO in its relevant representation.</p> <p>The paragraphs have also been revised to reflect the MMO's preference that it be referred to as "undertaker" rather than "licence holder".</p>	<p>7. uuu) (1) The licence holder <u>undertaker</u> must inform the MMO—</p> <ul style="list-style-type: none"> (a) at least five business days prior to the commencement of the first licensed activity; and (b) within five business days following the completion of the final licensed activity, <p>of the commencement or the completion (as applicable).</p> <p>(2) The licence holder <u>undertaker</u> must provide the following information to the MMO—</p> <ul style="list-style-type: none"> (a) the name and function in writing of any agent or contractor or sub-contractor that will carry on any licensed activity on behalf of the licence holder <u>undertaker</u>; and (b) such notification must be received by the MMO in writing not less than 24 hours before the commencement of the licensed activity. <p>(3) The licence holder <u>undertaker</u> must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors, and sub-contractors that will be carrying out any licensed activity on behalf of the licence holder <u>undertaker</u>.</p> <p>(4) The licence holder <u>undertaker</u> must keep a copy of this licence and any subsequent revisions or amendments available for inspection at its registered address and any site office location at or adjacent to a construction site.</p> <p>(5) Any changes to details supplied under sub-paragraph (2) must be notified to the MMO in writing <u>no less than 24 hours</u> prior to the agent, contractor or vessel engaging in the licensed activity in question.</p> <p>(6) Only those persons notified to the MMO in accordance with this condition are permitted to carry out a licensed activity.</p> <p>(7) Copies of this licence must be available for inspection at the following locations—</p> <ul style="list-style-type: none"> (a) the licence holder's <u>undertaker's</u> office at the Port of Immingham; and (b) during the construction of the authorised development only, at any site office which is adjacent to or near the River Humber and which has been provided for the purposes of the construction of the authorised development. <p>(8) The licence holder <u>undertaker</u> must request that the masters responsible for the vessels that will be carrying out any licensed activity on behalf of the licence holder <u>undertaker</u> as notified to the MMO</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
26.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 8(1), Construction environmental management plan)	The deleted text is unnecessary because "outline construction environmental management plan" is defined in paragraph 1 (Interpretation).	8. vvv(1) No licensed activities may be commenced until a construction environmental management plan for them has been submitted to and approved by the MMO following consultation with the relevant planning authority, the Environment Agency and Natural England on matters related to their function; and the submitted construction environmental management plan must be in accordance with the outline construction environmental management plan contained in appendix 2.E of the environmental statement , unless otherwise approved by the MMO.	Revision 2
27.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 9, Sediment sampling)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	9. The licensee-holder <u>undertaker</u> must undertake the works in accordance with the sediment sampling plan.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
28.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 10, Agents, contractors and sub-contractors)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>Agents, contractors and sub-contractors</p> <p>10. www (1) The licence holder undertaker must notify the MMO in writing of any agents, contractors or sub-contractors that will carry on any licensed activity listed in section 3 of this licence on behalf of the licence holder undertaker. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity.</p> <p>(2) The licence holder undertaker must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors or sub-contractors sub-contractors that will carry on any licensed activity listed in section 3 of this licence on behalf of the licence holder undertaker.</p>	Revision 2
29.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 11, Cold weather construction restriction strategy)	The revised text reflects the request of the MMO in its relevant representation and gives rise to no change in meaning.	<p>11. xxx (1) No construction operations for any licensed activity are to commence until a cold weather construction restriction is submitted to and agreed by the MMO in consultation with Natural England. The strategy must include the following—</p> <p>(a) No A provision that no construction operations (other than to finish driving any pile that is in the process of being driven at the point that the cold weather restriction comes into force) within 200 metres of exposed intertidal foreshore may must take place following seven consecutive days of zero or sub zero temperatures (where the temperature does not exceed zero degrees centigrade for more than six hours in any day or any other formula as may be agreed with the MMO to define short periods of thaw);</p> <p>(b) The establishment of three temperature monitoring points within the Humber Estuary;</p> <p>(c) If A provision that if the construction restriction comes into effect as a consequence of cold weather conditions, it will be reviewed as follows—</p> <p>(i) after 24 hours of above freezing temperatures the restriction will be lifted on a temporary basis provided that the weather forecast relevant for the area including the Port of Immingham, (as agreed with the MMO) indicates that freezing conditions will not return within five days; and</p> <p>(ii) after a further five clear days of above-freezing temperatures, the restrictions will be lifted entirely.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
30.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 12, Marine noise registry)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>12.—yyy) (1) Only when impact driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the licence holder<u>undertaker</u> must provide the following information to the Marine Noise Registry—</p> <ul style="list-style-type: none"> (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements; and (b) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the exact locations and specific dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements. <p>(2) The licence holder<u>undertaker</u> must notify the MMO of the successful submission of Forward Look requirements.</p>	Revision 2
31.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 13, Marine written scheme of archaeological investigation)	The revised text reflects the request of the MMO in its relevant representation that this should be amended to "outline marine written scheme of investigation".	<p>13. Archaeological method statements, together with a written report on any consultation carried out with Historic England and the relevant planning authority on matters related to their respective functions in their preparation, must be submitted to and approved by the MMO in writing in accordance with the provisions of the <u>outline</u> marine written scheme of investigation and a subsequent update must be provided to the MMO six weeks before commencement of any licensed activity to which the method statement relates.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
32.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 15(5) and (6), Piling and marine construction works)	The paragraphs have been revised to reflect the MMO's preference that it be referred to as "undertaker" rather than "licence holder".	<p>(5) Wherever possible the licence holder <u>undertaker</u> will use vibro-piling methodology whilst it is recognised that percussive piling may be required to drive the piles to their ultimately required depth.</p> <p>(6) <u>[Subject to sub-paragraph (7)]</u> below, the licence holder <u>undertaker</u> must ensure that no marine construction activity for the approach jetty, linkspan, innermost pontoon and the inner finger pier takes place between 1 October and 31 March inclusive in any year located within 200 metres of the intertidal foreshore.</p>	Revision 2
33.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 9, Sediment sampling)	The paragraphs have been revised in response to comments in the MMO's relevant representation, because sediment sampling is not something with which works must be carried out in accordance but one of the bases on which the deemed marine licence is being granted and must be kept up to date. The detail requested by the MMO for the definitions of "2023 sediment sampling plan" and "further sediment sampling plan" reflects this principle as to what needs to be kept up to date.	<p>Sediment sampling</p> <p>9. The licence holder must undertake the works in accordance with the sediment sampling plan.</p> <p><u>9. (1) Any sediment sampling analyses undertaken by a laboratory validated by the MMO and approved by the MMO as part of either the 2023 sediment sampling plan or any further sediment sampling plan are valid for a period of 3 years from the date when those analyses were undertaken.</u></p> <p><u>(2) Where the validity period for sediment sampling analyses set out in sub-paragraph (1) above expires, the undertaker must submit a further sediment sampling plan request to the MMO for its approval and any sediment sampling analyses from such further sediment sampling plan must be submitted to the MMO.</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
34.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 18, Coatings and treatment)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	18. The licence holder <u>undertaker</u> must ensure that any coatings and any treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by the Health and Safety Executive and the Environment Agency.	Revision 2
35.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 19(4), Pollution and spills)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	(4) The licence holder <u>undertaker</u> must comply with the existing marine pollution contingency plan in place for the Port of Immingham as detailed in the construction environmental management plan.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
36.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 20, Disposal at sea)	<p>The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".</p> <p>Sub-paragraphs (2) to (4) have been deleted and the appropriate approach to sediment sampling reflected in a revised paragraph 9 (as summarised above).</p>	<p>20.—bbb(1) The licence holder<u>undertaker</u> must inform the MMO of the location and quantities of material deposited each month under the licence. This information must be submitted to the MMO by 15 February each year for the months August to January inclusive and by 15 August each year for the months February to July inclusive.</p> <p>(2) The licence holder<u>undertaker</u> must ensure that only inert material of natural origin produced during dredging must be deposited in the disposal sites—</p> <p>(a) HU060 (unconsolidated); and</p> <p>(b) HU056 (consolidated),</p> <p>or any other site approved in writing <u>by the MMO</u>.</p> <p>(2) Where dredged materials arising from a capital dredging activity are intended to be disposed of at sea by the licence holder, the licence holder must undertake such disposal in accordance with the sediment sampling plan or any amendments to it as may be approved by the MMO.</p> <p>(3) Any sediment sampling analyses undertaken by a laboratory validated by the MMO and approved by the MMO as part of any sampling plan is valid for a period of 3 years from the date when those analyses were undertaken.</p> <p>(4) Where the validity period for sediment sampling analyses as set out in sub paragraph (4) above, the licence holder must submit a further sediment sampling plan to the MMO for its approval and such plan must include—</p> <p>(a) a detailed dredging methodology;</p> <p>(b) dredge location;</p> <p>(c) dredge amounts (total and annual, if applicable);</p> <p>(d) dredge depths;</p> <p>(e) duration of dredging activities;</p> <p>(f) whether the dredge is a capital dredging activity or a maintenance dredging activity; and</p> <p>(g) specific gravity of the material or material type.</p>	Revision 2

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37.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 21, Dropped objects)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>21. eee) (1) The licence holder <u>undertaker</u> must report all dropped objects to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of becoming aware of an incident.</p> <p>(2) On receipt of the Dropped Object Procedure Form, the MMO may require, acting reasonably, the licence holder <u>undertaker</u> to carry out relevant surveys. The licence holder <u>undertaker</u> must carry out surveys in accordance with the MMO's reasonable requirements and must report the results of such surveys to the MMO.</p> <p>(3) On receipt of such survey results the MMO may, acting reasonably, require the licence holder <u>undertaker</u> to remove specific obstructions from the seabed. The licence holder <u>undertaker</u> must carry out removals of the specific obstructions from the seabed in accordance with the MMO's reasonable requirements and its own expense.</p>	Revision 2
38.	Schedule 3, Deemed Marine Licence, Part 3, Procedure for the Discharge of Conditions, (paragraph 23, Meaning of "application")	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>23. In this Part, "application" means a submission by the licence holder <u>undertaker</u> for approval by or agreement of the MMO in respect of any document, strategy, information, plan, protocol or statement under this Schedule.</p>	Revision 2
39.	Schedule 3, Deemed Marine Licence, Part 3, Procedure for the Discharge of Conditions, (paragraph 24, Further information)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>24. The MMO may request in writing such further information from the licence holder <u>undertaker</u> as is necessary to enable the MMO to consider an application.</p>	Revision 2

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	regarding application)			
40.	Schedule 3, Deemed Marine Licence, Part 3, Procedure for the Discharge of Conditions, (paragraph 25(1), Determination of application)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>25.—eeee (1) In determining the application the MMO may have regard to—</p> <ul style="list-style-type: none"> (a) the application and any supporting information or documentation; (b) any further information provided by the licence holder<u>undertaker</u>; and (c) such other matters as the MMO thinks relevant. 	Revision 2
41.	Schedule 3, Deemed Marine Licence, Part 3, Procedure for the Discharge of Conditions, (paragraph 26, Notice of determination)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>26.—fff (1) Subject to sub-paragraph (2) or (3), the MMO must give notice to the licence holder<u>undertaker</u> of the determination of the application as soon as reasonably practicable after the application is received by the MMO.</p> <p>(2) Where the MMO has made a request under paragraph 24 the MMO must give notice to the licence holder<u>undertaker</u> of the determination of the application as soon as reasonably practicable once the further information is received.</p> <p>(3) Where the MMO refuses the application the refusal notice must state the reasons for the refusal.</p>	Revision 2

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42.	Schedule 11, Modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants (paragraph 2(3) and (4))	Correcting minor typographical error of paragraph numbering.	<p>(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 43(5)—</p> <p>(a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and</p> <p>(b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.</p> <p>(3) 3. — hhhh) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).</p> <p>(4) (1) For Section 5A (relevant valuation date) of the 1961 Act, omit the words after “If” and substitute—</p> <p>(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 43(7) of Schedule 11 to the Associated British Ports (Immingham Green Energy Terminal) Order 202*);</p> <p>(b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 43(10) of Schedule 11 to the Associated British Ports (Immingham Green Energy Terminal) Order 202* to acquire an interest in the land; and</p> <p>(c) the acquiring authority enters on and takes possession of that land,</p> <p>the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right .</p>	Revision 2
43.	Schedule 14, Protective Provisions, Part 1, For the Protection of the Statutory Conservancy and Navigation	All amendments have been made at the request of the Statutory Conservancy and Navigation Authority.	<p>PART 1</p> <p>FOR THE PROTECTION OF THE HUMBER <u>STATUTORY</u> CONSERVANCY COMMISSIONERS <u>AND NAVIGATION AUTHORITY FOR THE HUMBER</u></p>	Revision 2

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	Authority for the Humber		<p>“authorised works” means any work, operation or activity that the Undertaker is authorised by this Order to construct or carry out;</p> <p>“the authority” means the Humber Conservancy Commissioners including in its role as competent harbour authority and local lighthouse authority and also as the appropriate Port of Immingham Statutory Harbour Authority also in its capacity as local lighthouse authority for its statutory area;</p> <p>“environmental document” means—</p> <p>(a) the environment statement prepared for the purposes of the application for this Order together with any supplementary environmental information or other document so prepared by way of clarification or amplification of the environmental statement; and</p> <p>(b) any other document containing environmental information provided by the undertaker to the Secretary of State or the authority<u>Statutory Conservancy and Navigation Authority</u> or Trinity House for the purposes of any tidal works approval under article 49 (provision against danger to navigation), article 50 (lights on tidal works during construction) or article 51 (permanent lights on tidal works); and</p> <p>“the river” means the River Humber;<u>;</u></p> <p>General</p> <p>2. —(1)<u>(1)</u> The provisions of this Part of this Schedule, unless otherwise agreed in writing between the undertaker and the authority<u>Statutory Conservancy and Navigation Authority</u>, have effect until the commencement of the operation of the authorised development, for the protection of the authority<u>Statutory Conservancy and Navigation Authority</u> and the users of the river.</p> <p>(2) For the purposes of this Part of this Schedule, the definition of “tidal work” is taken to include—</p> <p>(a) any projection over the river outside the area of jurisdiction by booms, cranes and similar plant or machinery, whether or not situated within the area of jurisdiction; and</p> <p>(b) any authorised work which affects the river or any functions of the authority<u>Statutory Conservancy and Navigation Authority</u>, whether or not that authorised work is within the limits of the authority<u>Statutory Conservancy and Navigation Authority</u>.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Approval of detailed design of tidal works</p> <p>3. — kkkk (1) Prior to the commencement of the authorised development in the marine environment the undertaker must submit to the authority-plans <u>Statutory Conservancy and Navigation Authority plans (including method statements)</u> and sections of the tidal works or operation and such further particulars as the authority <u>Statutory Conservancy and Navigation Authority</u> may, within 28 days from the day on which plans and sections are submitted under this sub-paragraph, reasonably require.</p> <p>(2) Any approval of the authority <u>Statutory Conservancy and Navigation Authority</u> required under this paragraph is deemed to have been given if it is neither given nor refused (or is refused but without an indication of the grounds for refusal) within 28 days of the day on which the request for consent is submitted under sub-paragraph (1) and must not be unreasonably withheld but may be given subject to such reasonable requirements as the authority <u>Statutory Conservancy and Navigation Authority</u> may make for the protection of—</p> <ul style="list-style-type: none"> (a) traffic in, or the flow or regime of, the river; (b) the use of its operational land or the river for the purposes of performing its functions; or (c) the performance of any of its functions connected with environmental protection. <p>(3) Requirements made under sub-paragraph (2) may include conditions as to—</p> <ul style="list-style-type: none"> (a) the relocation, provision and maintenance of works, moorings, apparatus and equipment necessitated by the tidal work; and (b) the expiry of the approval if the undertaker does not commence construction of the tidal work approved within a prescribed period. <p>(4) Whenever the undertaker provides the Secretary of State with an environmental document it must at the same time send a copy to the authority <u>Statutory Conservancy and Navigation Authority</u>.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Commencement of tidal works</p> <p>4. Any operations for the construction of any tidal work approved in accordance with this Order, once commenced, must be carried out by the undertaker without unnecessary delay and to the reasonable satisfaction of the authority<u>Statutory Conservancy and Navigation Authority</u> so that river traffic, the flow or regime of the river and the exercise of the authority's<u>Statutory Conservancy and Navigation Authority's</u> functions do not suffer more interference than is reasonably practicable, and an authorised officer of the authority<u>Statutory Conservancy and Navigation Authority</u> is entitled at all reasonable times, on giving such notice as may be reasonable in the circumstances, to inspect and survey such operations.</p> <p>Discharges, etc.</p> <p>5. —(1)<u>(1)</u> The undertaker must not without the Consent of the authority<u>Statutory Conservancy and Navigation Authority</u> —</p> <ul style="list-style-type: none"> (a) deposit in or allow to fall or be washed into the river any gravel, soil or other material; or (b) discharge or allow to escape either directly or indirectly into the river any offensive or injurious matter in suspension or otherwise. <p>(2) Any consent of the authority<u>Statutory Conservancy and Navigation Authority</u> under this paragraph must not be unreasonably withheld but may be given subject to such terms and conditions as the authority<u>Statutory Conservancy and Navigation Authority</u> may reasonably impose.</p> <p>(3) Any such approval is deemed to have been given if it is neither given nor refused (or is refused but without an indication of the grounds for refusal) within 28 days of the day on which the request for consent is submitted under sub-paragraph (1).</p> <p>(4) In its application to the discharge of water into the river, article 18 (discharge of water) has effect subject to the terms of any conditions attached to a consent given under this paragraph.</p> <p>(5) The undertaker must not, in exercise of the powers conferred by article 18 (discharge of water), damage or interfere with the beds or banks of any watercourse forming part of the river unless such damage or interference is approved as a tidal work under this Order or is otherwise approved in writing by the authority<u>Statutory Conservancy and Navigation Authority</u>.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Obstruction in river</p> <p>6. If any pile, stump or other obstruction to navigation becomes exposed in the course of constructing any tidal work (other than a pile, stump or other obstruction on the site of a structure comprised in any permanent work), the undertaker, as soon as reasonably practicable after the receipt of notice in writing from the authority<u>Statutory Conservancy and Navigation Authority</u> requiring such action, must remove it from the river or, if it is not reasonably practicable to remove it—</p> <ul style="list-style-type: none"> (a) cut the obstruction off at such level below the bed of the river as the authority<u>Statutory Conservancy and Navigation Authority</u> may reasonably direct; or (b) take such other steps to make the obstruction safe as the authority<u>Statutory Conservancy and Navigation Authority</u> may reasonably require. <p>Removal, etc. of the authority's<u>Statutory Conservancy and Navigation Authority's</u> moorings and buoys</p> <p>7. If—</p> <ul style="list-style-type: none"> (a) by reason of the construction of any tidal work it is reasonably necessary for the authority<u>Statutory Conservancy and Navigation Authority</u> to incur reasonable costs in temporarily or permanently altering, removing, resiting, repositioning or reinstating existing moorings or aids to navigation (including navigation marks or lights) owned by the authority<u>Statutory Conservancy and Navigation Authority</u>, or laying down and removing substituted moorings or buoys, or carrying out dredging operations for any such purpose, not being costs which it would have incurred for any other reason; and (b) the authority<u>Statutory Conservancy and Navigation Authority</u> gives to the undertaker not less than 28 days' notice of its intention to incur such costs, and takes into account any representations which the undertaker may make in response to the notice within 14 days of the receipt of the notice, <p>the undertaker must pay the costs reasonably so incurred by the authority<u>Statutory Conservancy and Navigation Authority</u>.</p>	

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			<p>Navigational lights, buoys, etc.</p> <p>8. In addition to any requirement set out in articles 50 (lights on tidal works during construction) and 51 (permanent light on tidal works) the undertaker, at or near every tidal work, and any other work of which the undertaker is in possession in exercise of any of the powers conferred by this Order (being in either case a work which is below mean high water level forming part of the River Humber), must exhibit such lights, lay down such buoys and take such other steps for preventing danger to navigation as the authority<u>Statutory Conservancy and Navigation Authority</u> may from time to time reasonably require.</p> <p>Removal of temporary works</p> <p>9. On completion of the construction of any part of a permanent authorised work, the undertaker must as soon as practicable remove—</p> <ul style="list-style-type: none"> (a) any temporary tidal work carried out only for the purposes of that part of the permanent work; and (b) any materials, plant and equipment used for such construction, <p>and must make good the site to the reasonable satisfaction of the authority<u>Statutory Conservancy and Navigation Authority</u>.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Protective action</p> <p>10. mmmm <u>(1)</u> If any tidal work—</p> <ul style="list-style-type: none"> (a) is constructed otherwise than in accordance with the requirements of this Part of this Schedule or with any condition in an approval given pursuant to paragraph (3) (approval of detailed design of tidal works) or (b) during construction gives rise to sedimentation, scouring, currents or wave action detrimental to traffic in, or the flow or regime of, the river, <p>then the authority <u>Statutory Conservancy and Navigation Authority</u> may by notice in writing require the undertaker at the undertaker's own expense to comply with the remedial requirements specified in the notice.</p> <p>(2) The requirements that may be specified in a notice given under sub-paragraph (1) are—</p> <ul style="list-style-type: none"> (a) in the case of a tidal work to which sub-paragraph (1)(a) applies, such requirements as may be specified in the notice for the purpose of giving effect to the requirements of— <ul style="list-style-type: none"> (i) this Part of this Schedule; or (ii) the condition that has been breached; or (b) in any case within sub-paragraph (1)(b), such requirements as may be specified in the notice for the purpose of preventing, mitigating or making good the sedimentation, scouring, currents or wave action so far as required by the needs of traffic in, or the flow or regime of, the river. <p>(3) If the undertaker does not comply with a notice under sub-paragraph (1), or is unable to do so, the authority <u>Statutory Conservancy and Navigation Authority</u> may in writing require the undertaker to—</p> <ul style="list-style-type: none"> (a) remove, alter or pull down the tidal work, and where the tidal work is removed to restore the site of that work (to such extent as the authority <u>Statutory Conservancy and Navigation Authority</u> reasonably requires) to its former condition; or 	

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			<p>(b) take such other action as the authority<u>Statutory Conservancy and Navigation Authority</u> may reasonably specify for the purpose of remedying the non-compliance to which the notice relates.</p> <p>(4) If a tidal work gives rise to environmental impacts over and above those anticipated by any environmental document, the undertaker, in compliance with its duties under any enactment and, in particular, under section 48A of the Harbours Act 1964(a), must take such action as is necessary to prevent or mitigate those environmental impacts and in doing so must consult and seek to agree the necessary measures with the authority<u>Statutory Conservancy and Navigation Authority</u>.</p> <p>(5) If the authority<u>Statutory Conservancy and Navigation Authority</u> becomes aware that any tidal work is causing an environmental impact over and above those anticipated by any environmental document, the authority<u>Statutory Conservancy and Navigation Authority</u> must notify the undertaker of that environmental impact, the reasons why the authority<u>Statutory Conservancy and Navigation Authority</u> believes that the environmental impact is being caused by the tidal work and of measures that the authority<u>Statutory Conservancy and Navigation Authority</u> reasonably believes are necessary to counter or mitigate that environmental impact.</p> <p>(6) The undertaker must implement the measures that the authority<u>Statutory Conservancy and Navigation Authority</u> has notified to the undertaker or must implement such other measures as the undertaker believes are necessary to counter the environmental impact identified, giving reasons to the authority<u>Statutory Conservancy and Navigation Authority</u> as to why it has implemented such other measures.</p>	

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			<p>Abandoned or decayed works</p> <p>11.—(1) (1) If any tidal work or any other work of which the undertaker is in possession in exercise of any of the powers conferred by this Order (being in either case a work which is below mean high water level) is abandoned or falls into decay, the authority <u>Statutory Conservancy and Navigation Authority</u> may by notice in writing require the undertaker to take such reasonable steps as may be specified in the notice either to repair or restore the work, or any part of it, or to remove the work and (to such extent as the authority <u>Statutory Conservancy and Navigation Authority</u> reasonably requires) to restore the site to its former condition.</p> <p>(2) If any tidal work is in such condition that it is, or is likely to become, a danger to or an interference with navigation in the river, the authority <u>Statutory Conservancy and Navigation Authority</u> may by notice in writing require the undertaker to take such reasonable steps as may be specified in the notice—</p> <p>(a) to repair and restore the work or part of it; or</p> <p>(b) if the undertaker so elects, to remove the tidal work and (to such extent as the authority <u>Statutory Conservancy and Navigation Authority</u> reasonably requires) to restore the site to its former condition.</p> <p>(3) If after such reasonable period as may be specified in a notice under this paragraph the undertaker has failed to begin taking steps to comply with the requirements of the notice, or after beginning has failed to make reasonably expeditious progress towards their implementation, the authority <u>Statutory Conservancy and Navigation Authority</u> may carry out the works specified in the notice and any expenditure reasonably incurred by it in so doing is recoverable from the undertaker.</p> <p>Facilities for navigation</p> <p>12.—(1) (1) The undertaker must not in the exercise of the powers conferred by this Order interfere with any marks, lights or other navigational aids in the river without the agreement of the authority <u>Statutory Conservancy and Navigation Authority</u> and must ensure that access to such aids remains available during and following construction of any tidal works.</p> <p>(2) The undertaker must provide at any tidal works, or must afford reasonable facilities at such works (including an electricity supply) for the authority <u>Statutory Conservancy and Navigation Authority</u> to provide at the undertaker's cost, from time to time, such navigational lights, signals, radar or other apparatus for the benefit, control and direction of navigation of users of the river in general as the authority <u>Statutory Conservancy and Navigation Authority</u> may deem necessary by reason of the construction of any tidal works, and must ensure that access remains available to apparatus during and following construction of such works.</p>	

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			<p>Sedimentation, etc. and remedial action</p> <p>13.—pppp (1) This paragraph applies if any part of the river becomes subject to sedimentation, scouring, currents or wave action which—</p> <ul style="list-style-type: none"> (a) is, during the period beginning with the commencement of the construction of that tidal work and ending with the expiration of 10 years after the date on which all the tidal works constructed under this Order are completed, wholly or partly caused by a tidal work; and (b) the safety of navigation or for the protection of works in the river, should in the reasonable opinion of the authority <u>Statutory Conservancy and Navigation Authority</u> be removed or made good. <p>(2) The undertaker must either—</p> <ul style="list-style-type: none"> (a) pay to the authority <u>Statutory Conservancy and Navigation Authority</u> any additional expense to which the authority <u>Statutory Conservancy and Navigation Authority</u> may reasonably be put in dredging the river to remove the sedimentation or in making good the scouring so far as (in either case) it is attributable to the tidal work; or (b) carry out the necessary dredging at its own expense and subject to the prior approval of the authority <u>Statutory Conservancy and Navigation Authority</u>, such prior approval not to be unreasonably withheld or delayed; <p>and the reasonable expenses payable by the undertaker under this paragraph include any additional expenses accrued or incurred by the authority <u>Statutory Conservancy and Navigation Authority</u> in carrying out surveys or studies in connection with the implementation of this paragraph.</p>	

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			<p>Indemnity</p> <p>14. (1) <u>(1)</u> The undertaker is responsible for and must make good to the authority<u>Statutory Conservancy and Navigation Authority</u> all reasonable financial costs or losses not otherwise provided for in this Part of this Schedule which may reasonably be incurred or suffered by the authority<u>Statutory Conservancy and Navigation Authority</u> by reason of—</p> <ul style="list-style-type: none"> (a) the construction or operation of the authorised works or the failure of the authorised works; (b) anything done in relation to a mooring or buoy under paragraph 8 (navigational lights, buoys, etc.); or (c) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction or operation of the authorised works or dealing with any failure of the authorised works, <p>and the undertaker must indemnify the authority<u>Statutory Conservancy and Navigation Authority</u> from and against all claims and demands arising out of or in connection with the authorised works or any such failure, act or omission.</p> <p>(2) The fact that any act or thing may have been done—</p> <ul style="list-style-type: none"> (a) by the authority<u>Statutory Conservancy and Navigation Authority</u> on behalf of the undertaker; or (b) by the undertaker, its employees, contractors or agents in accordance with plans or particulars submitted to or modifications or conditions specified by the authority<u>Statutory Conservancy and Navigation Authority</u>, or in a manner approved by the authority<u>Statutory Conservancy and Navigation Authority</u>, or under its supervision or the supervision of its duly authorised representative, <p>does not (if it was done or required without negligence on the part of the authority<u>Statutory Conservancy and Navigation Authority</u> or its duly authorised representative, employee, contractor or agent) excuse the undertaker from liability under the provisions of this paragraph.</p> <p>(3) The authority<u>Statutory Conservancy and Navigation Authority</u> must give the undertaker reasonable notice of any such claim or demand as is referred to in sub-paragraph (1), and no settlement or compromise of any such claim or demand is to be made without the prior consent of the undertaker.</p>	

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			<p>Statutory functions</p> <p>15. 15.—(1) (1) Subject to the modification of any enactments in this Order and this paragraph, any function of the undertaker or any officer of the undertaker, whether conferred by or under this Order or any other enactment, is subject to—</p> <ul style="list-style-type: none"> (a) any enactment relating to the authority <u>Statutory Conservancy and Navigation Authority</u>; (b) any byelaw, direction or other requirement made by the authority <u>Statutory Conservancy and Navigation Authority</u> or the harbour master under any enactment; and any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction or operation of the authorised works or dealing with any failure of the authorised works, (c) any other exercise by the authority <u>Statutory Conservancy and Navigation Authority</u> or the harbour master of any function conferred by or under any enactment. <p>(2) The undertaker must not take any action in the river outside the area of jurisdiction under sections 57 and 65 of the 1847 Act as incorporated by article 4 (incorporation of the Act of 1847) except with the consent of the harbour master, which must not be unreasonably withheld.</p> <p>(3) The dock master must not give or enforce any special direction to any vessel under section 52 of the 1847 Act, as incorporated by article 4 (incorporation of the Act of 1847), if to do so would conflict with a special direction given to the same vessel by the harbour master.</p> <p>(4) the authority <u>Statutory Conservancy and Navigation Authority</u> must consult the undertaker before making any byelaw which directly applies to or which could directly affect the construction, operation or maintenance of the authorised development.</p> <p>(5) the authority <u>Statutory Conservancy and Navigation Authority</u> or the harbour master (as appropriate) must consult the undertaker before giving any general direction which directly affects the construction, operation or maintenance of the authorised development.</p> <p>Removal of wrecks and obstructions, etc. and oil spillage plan</p> <p>17. The undertaker must consult the harbour master before submitting any oil pollution emergency plan to the Maritime and Coastguard Agency and must ensure that any such plan is compatible with the authority's <u>Statutory Conservancy and Navigation Authority's</u> existing plan known as "Humber Clean" or such other plan as supersedes "Humber Clean".</p> <p>Disputes</p> <p>18. Any dispute arising between the undertaker and the authority under this Part of this Schedule is to be determined by arbitration as provided in article 62 (arbitration).</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
44.	Schedule 14, Protective Provisions, Part 3, For the protection of Northern Powergrid, (paragraph 35, Damages to property and other losses)	On submission of the dDCO the applicant was aware of a number of existing wayleaves and licences between ABP and Northern Powergrid (or their predecessors) and wished to regulate their interaction with the protective provisions (i.e. ensure that the protective provisions take precedence in the usual manner). The wayleaves and licences have now been identified and inserted. The applicant continues discussion with Northern Powergrid of the protective provisions in its favour.	<p>34.35. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Northern Powergrid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of [Company and Northern Powergrid identifying list of relevant existing agreements]—</p> <p>(a) the wayleave between (1) Lord Worsley and (2) Yorkshire Electricity Board entered into on or around 1966;</p> <p>(b) the wayleave between (1) The Right Honourable Kenneth Peter Lyle Fourth Earl of Inchape and (2) Northern Powergrid dated 26 May 2016;</p> <p>(c) the licence between (1) British Transport Docks Board and (2) Yorkshire Electricity Board dated 27 November 1973;</p> <p>(d) the licence between (1) British Transport Commission and (2) Yorkshire Electricity Board dated 16 October 1962;</p> <p>(e) the licence between (1) Lord Worsley and (2) Yorkshire Electricity Board dated 19 July 1962;</p> <p>(f) the licence between (1) Lord Worsley and (2) Yorkshire Electricity Board dated 25 October 1957; and</p> <p>(g) the licence between (1) British Transport Docks Board and (2) Yorkshire Electricity Board dated 14 May 1965.</p> <p>the term of this Part of this Schedule applies.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
45.	Schedule 14, Protective Provisions, Part 4, For the Protection of Anglian Water, (paragraph 50)	On submission of the dDCO the applicant was aware of a number of existing licences between ABP and Anglian Water (or their predecessors) and wished to regulate their interaction with the protective provisions. The licences have now been identified and inserted (i.e. ensure that the protective provisions take precedence in the usual manner). The applicant continues discussion with Anglian Water of the protective provisions in its favour.	<p>49.50. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of [Company and Anglian Water identifying list of relevant existing agreements] =</p> <p>(a) the licence between (1) Humber Conservancy Board and (2) Grimsby Rural District Council dated 1 July 1920;</p> <p>(b) the licence between (1) British Transport Docks Board and (2) Grimsby Rural District Council dated 28 March 1969; and</p> <p>(c) the licence between (1) British Transport Docks Board and (2) North East Lincolnshire Water Board dated 18 May 1970.</p> <p>the term of this Part of this Schedule applies.</p>	Revision 2
46.	Schedule 14, Protective Provisions, Part 7, for the Protection of Cadent Gas Limited as Gas Undertaker, (paragraph 92, Enactments and Agreements)	On submission of the dDCO the applicant was aware of a number of existing deeds of easement between ABP and Cadent (or their predecessors) and wished to regulate their interaction with the protective provisions (i.e. ensure that the protective provisions take precedence in the usual manner). The licences have now been identified and inserted. The applicant continues discussion with	<p>91.92. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of [Company and Cadent identifying list of relevant existing agreements] =</p> <p>(a) the deed of easement between (1) Mr G.M.V. Winn and others (2) and The British Gas Corporation dated 25 April 1975; and</p> <p>(b) the deed of easement between (1) Mr G.M.V. Winn and others (2) and The British Gas Corporation dated 6 May 1980.</p> <p>the term of this Part of this Schedule applies.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		Cadent of the protective provisions in its favour.		
47.	Schedule 14, Protective Provisions, Part 8, For the Protection of Operators of Electronic Communications Code Networks, (paragraph 103)	On submission of the dDCO the applicant was aware of a wayleave related to telecommunications apparatus and wished to regulate its interaction with the protective provisions in favour of telecoms operators (i.e. ensure that the protective provisions take precedence in the usual manner). The wayleave has now been identified and inserted.	102.103. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of the wayleave between (1) The London and North Eastern Railway Company and operators identifying list of relevant existing agreements (2) Her Majesty's Postmaster General dated 24 May 1933 , the term of this Part of this Schedule applies.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
48.	Schedule 17, Procedure regarding certain approvals, etc., (paragraph 1, Interpretation)	The definition of “requirement consultee” has been amended to reflect that consultees being consulted by any “relevant authority” in this Schedule, including in respect of conditions as well as requirements, benefit from its provisions and not just those consultees consulted by the “relevant planning authority”.	<p>1. In this Schedule—</p> <p>“appeal documentation” means a written statement of appeal which describes the nature of the differences between the parties, the factual issues, the undertaker’s case and evidence relied on;</p> <p>“relevant authority” means any person, authority or body named in any of the provisions of this Order and whose consent, agreement or approval is sought; and</p> <p>“requirement consultee” means any body or authority named in a requirement <u>or condition</u> as a body to be consulted by the relevant planning authority in discharging that requirement <u>or condition</u>.</p>	Revision 2
49.	Schedule 17, Procedure regarding certain approvals, etc., (paragraph 3(3), Further information and consultation)	The period of 10 business days for the relevant decision-making authority to pass on additional requests for information to the applicant arising from requirement consultee representations has been extended to 20 at the request of the Environment Agency.	<p>(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within five business days of receipt of the application, and must notify the undertaker in writing specifying any additional further information requested by the requirement consultee within 10<u>20</u> business days of receipt of the application.</p>	Revision 2

3 Schedule of Changes as updated at Deadline 1 (13 March 2024)

Table 2: Schedule of Changes to Revision 3 of the dDCO (TR030008/APP/2.1)

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Definition of "the Order land"	Additional clarity that all land in the definition is shown on the land plans and described in the book of reference.	"the Order land" means the land shown shaded pink, blue, green and purple and shown shaded and hatched blue (<u>in each case</u>) on the land plans and described in the book of reference;	Revision 3
2.	Definition of "Trinity House"	Request of Trinity House.	"Trinity House" means the Corporation of Trinity House <u>of Deptford Street</u> Strond ;	Revision 3
3.	Article 3 heading	Request of Examining Authority in First Round Written Question Q1.18.3.1 [PD-008] because the provision only provides for disapplication.	Application, disapplication and modification <u>Disapplication</u> of legislative provisions	Revision 3
4.	Article 4, Incorporation of the 1847 Act, (paragraph (2)(i))	To be clearer that the first reference to "harbour master" is to its references in the 1847 Act but assist the reader in knowing exactly where to find the provision's later references to "dock master" and "harbour master" in the dDCO. No substantive change.	(i) any requirement to comply with a notice or direction given by the harbour master is to be construed as including a requirement that, in complying with such notice or direction, a person who is subject to the notice or direction must also comply with any relevant notice or direction given by the dock master or the harbour master (which both have the meaning given in <u>article 2(1) of this Order</u>) in the exercise by either or both of them of any function conferred by or under any enactment (including this Order).	Revision 3
5.	Article 31, Temporary use of land for	Amendment for precision, as more particularly explained in the response to First Round	(f) construct any works on the land referred to in sub-paragraph (a) <u>(a)(ii)</u> as are mentioned in Schedule 1 (authorised project); and	Revision 3

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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
	constructing the authorised project, (paragraph (1)(f))	Written Question Q1.18.3.11 [PD-008].		
6.	Article 46 (Benefit of Order), paragraph (4)	Correction of typographical error to reflect the actual defined term in article 2 (Interpretation).	(4) Air Products has the benefit of the provisions to which paragraph (3) refers solely so far as they relate to the land shown as plots 3/2, 4/5, 4/7, 4/8, 4/9, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/26, 4/28, 4/29, 4/30, 4/32, 5/3, 5/4, 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/18, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/36, 5/37, 5/38, 5/39, 6/6, 6/14, 6/15, 6/16, 6/18, 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 and 7/23 on the land plans and described in the book of reference and (where applicable) on the terms of those provisions) land outside the Order Limits limits, except (in each aforementioned case) in respect of any interests of the Company.	Revision 3
7.	Article 49 (Provision against danger to navigation)	Request of Trinity House to reflect that its directions must also be complied with, as general lighthouse authority.	49. In case of damage to, or destruction or decay of, a tidal work or any part of it, the undertaker must as soon as reasonably practicable notify Trinity House, the statutory harbour authority and the Statutory Conservancy and Navigation Authority (as relevant) and must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House, and the statutory harbour authority or Statutory Conservancy and Navigation Authority (as relevant) may from time to time direct.	Revision 3
8.	Article 50 (Lights on tidal works during construction)	Request of Trinity House to reflect that its directions must also be complied with, as general lighthouse authority.	during the whole time of their construction, alteration, replacement or extension, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House, and the statutory harbour authority or Statutory Conservancy and Navigation Authority (as relevant) may from time to time direct.	Revision 3
9.	Article 51 (Permanent light on tidal works)	Request of Trinity House to reflect that its directions must also be complied with, as general lighthouse authority.	51. After a completion of a tidal work, the undertaker must at the outer extremity of the tidal work exhibit every night from sunset to sunrise such lights, if any, and take such steps for the prevention of danger to navigation as Trinity House, and the statutory harbour authority or Statutory Conservancy and Navigation Authority (as relevant) may from time to time direct.	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
10.	Schedule 2, paragraph 1 (Interpretation), definition of "commence"	Clarification that the definition of "commence" is to be read in respect of parts of the authorised project as well as the whole. Removal of archaeological investigations which have already occurred. Exclusion of Work No. 9 from receipt and erection of construction plant and equipment and erection of temporary contractor and site welfare facilities to ensure it is clear that no significant environmental effects will arise from these limited operations which would facilitate site set up. See paragraphs 12.4.1 – 12.4.3 of the Explanatory Memorandum [TR030008/EXAM/9.3].	"commence" means beginning to carry out any material operation (as defined in section 155 (when development begins) of the 2008 Act) forming part of the authorised project <u>or the relevant part of it (in each case as specified where the term "commence" is used in this Schedule)</u> other than operations consisting of site clearance (excluding the clearance of trees or other vegetation from Long Strip), demolition work, archaeological investigations , environmental surveys and monitoring, investigations for the purposes of assessing ground and geological conditions, remedial work in respect of any contamination or other adverse ground conditions, the receipt and erection of construction plant and equipment <u>(excluding in relation to Work No. 9)</u> , the erection of temporary contractor and site welfare facilities <u>(excluding in relation to Work No. 9)</u> , the diversion, laying and connection of services, the erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "commencement" and "commenced" are to be construed accordingly;	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
11.	Schedule 3, Deemed Marine Licence, (paragraph 11)	Clarification that the cold weather construction restriction document is a "strategy" and at paragraph 11(2) that it must be complied with. Correction in paragraph 11(1)(a) with the common formulation for a restriction that no activity may occur in the specified circumstances. It is unarguable that the wording amounts to a restriction.	<p>11.—(1) No construction operations for any licensed activity are to commence until a cold weather construction restriction <u>strategy</u> is submitted to and agreed by the MMO in consultation with Natural England. The strategy must include the following—</p> <ul style="list-style-type: none"> (a) A provision that no construction operations (other than to finish driving any pile that is in the process of being driven at the point that the cold weather restriction comes into force) within 200 metres of exposed intertidal foreshore <u>must may</u> take place following seven consecutive days of zero or sub zero temperatures (where the temperature does not exceed zero degrees centigrade for more than six hours in any day or any other formula as may be agreed with the MMO to define short periods of thaw); (b) The establishment of three temperature monitoring points within the Humber Estuary; (c) A provision that if the construction restriction comes into effect as a consequence of cold weather conditions, it will be reviewed as follows— <ul style="list-style-type: none"> (i) after 24 hours of above freezing temperatures the restriction will be lifted on a temporary basis provided that the weather forecast relevant for the area including the Port of Immingham, (as agreed with the MMO) indicates that freezing conditions will not return within five days; and (ii) after a further five clear days of above-freezing temperatures, the restrictions will be lifted entirely. <p><u>(2) All licensed activities must be carried out in accordance with the cold weather construction restriction strategy approved pursuant to sub-paragraph (1), unless otherwise approved by the MMO.</u></p>	Revision 3
12.	Schedule 3, Deemed Marine Licence, (paragraph 15(6))	Amendment to the wording to capture an error in the description of the structures and refinement of wording to include decommissioning phase and provide explicit wording that mitigation is relevant to exposed intertidal only.	<p>(6) [Subject to sub-paragraph (7) below, the undertaker must ensure that no <u>marine</u> construction activity for the approach jetty, <u>linkspan, innermost pontoon and the inner finger pier</u> or decommissioning of topsides takes place between 1 October and 31 March inclusive in any year located within 200 metres of the <u>exposed</u> intertidal foreshore.]</p>	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
13.	Schedule 3, Deemed Marine Licence, (paragraph 15(7))	Amendment to the wording to include decommissioning. This was a result of questions from the examining authority during the issue specific hearings.	(7) During the restricted period between 1 October and 31 March inclusive in any year, marine construction activity <u>or decommissioning of topsides</u> may be undertaken at distances less than 200 metres of exposed intertidal foreshore provided that—	Revision 3
14.	Schedule 3, Deemed Marine Licence, (paragraph 15(9))	Removal of the word “percussive” so as to require any piling works to be restricted as per the condition. This change was at the request of the MMO and Natural England.	(9) Subject to sub-paragraph 10, no percussive piling of marine piles within the waterbody is to take place between the hours of 7pm and 7am from 1 March to 31 March (inclusive) and from 1 September to 31 October (inclusive) or between the hours of sunset and sunrise from 1 June to 30 June (inclusive) and from 1 August to 31 August (inclusive) in any one calendar year.	Revision 3
15.	Schedule 3, Deemed Marine Licence, (paragraph 15(11) and (18))	The MMO required that the restrictions align with the assessment maximums in sub-paragraph (11) but a contingency period is recognised in paragraph (18).	<p>(11) Percussive piling of marine piles is to be restricted at other times as follows—</p> <p>(a) From subject to sub-paragraph (18), from 1 June to 30 June (inclusive) in any one calendar year, the maximum amount of percussive piling permitted within any four-week 24 hour period must not exceed— 270 minutes;</p> <p style="padding-left: 40px;">(i) 140 hours where a single piling rig is in operation; or (ii) a total of 196 hours where two or more rigs are in operation;</p> <p>(b) From subject to sub-paragraph (18), from 1 August to 31 October (inclusive) in any <u>one</u> calendar year, the maximum amount of percussive piling permitted within any four-week 24 hour period must not exceed— <u>270 minutes</u>,</p> <p style="padding-left: 40px;">(i) 140 hours where a single piling rig is in operation; or (ii) a total of 196 hours where two or more rigs are in operation;</p> <p>except <u>(in each case)</u> for any percussive piling of marine piles undertaken on exposed mudflat outside the water column at periods of low water and save for percussive piling operations that have been initiated where an immediate cessation of the activity would form an unsafe working practice.</p>	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<u>(18) Where percussive piling is paused the recommencement of such percussive piling may take place for a contingency period of up to a total of 60 minutes within any 24 hour period in addition to the otherwise maximum amount of percussive piling permitted within any 24 hour period specified in sub-paragraph(11).</u>	
16.	Schedule 3, Deemed Marine Licence, (paragraph 15(15) - (16))	A piling protocol has been added following discussions with the MMO.	<p><u>(15) The undertaker must submit weekly reports to the MMO of the duration of percussive piling that is undertaken on any given day on which piling takes place during the construction of the authorised development, unless otherwise agreed in writing with the MMO.</u></p> <p><u>(16) The reports submitted to the MMO pursuant to sub-paragraph (15) must include a log of the number and approximate location of piling rigs which are in operation on any given day, along with the number of piles driven.</u></p> <p><u>(17) The undertaker must hold fortnightly meetings with the MMO to discuss the weekly reports submitted pursuant to sub-paragraph(15) and agree any corrective action if required, unless otherwise agreed in writing with the MMO.</u></p>	Revision 3
17.	Schedule 14, Protective Provisions, Part 1, For the Protection of the Statutory Conservancy and Navigation Authority for the Humber, definition of "environmental statement"	Clarifications requested by Trinity House and agreed by the Statutory Conservancy and Navigation Authority to tie this definition more closely to the particular provisions of articles 49, 50 and 51 in the dDCO. The Applicant has no objection.	(b) any other document containing environmental information provided by the undertaker to the Secretary of State or the Statutory Conservancy and Navigation Authority or Trinity House for the purposes of any tidal works approval <u>in connection with any direction</u> under article 49 (provision against danger to navigation), article 50 (lights on tidal works during construction) or article 51 (permanent lights <u>light</u> on tidal works); and	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
18.	Schedule 14, Protective Provisions, Part 1, For the Protection of the Statutory Conservancy and Navigation Authority for the Humber, (paragraph 15(1)(b))	Removal of errant text unrelated to these protective provisions, or indeed the dDCO, as identified by the Statutory Conservancy and Navigation Authority.	(b) any byelaw, direction or other requirement made by the Statutory Conservancy and Navigation Authority or the harbour master under any enactment; and any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction or operation of the authorised works or dealing with any failure of the authorised works;	Revision 3

4 Schedule of Changes as updated at Deadline 3 (3 May 2024)

Table 3: Schedule of Changes to Revision 4 of the dDCO (TR030008/APP/2.1)

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Article 2, Interpretation	Definition of “the undertaker” revised to include two additional land plots required in connection with the Applicant’s Change Application.	<p>so far as they relate to the land shown as plots 3/2, 4/5, 4/7, 4/8, 4/9, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/26, 4/28, 4/29, 4/30, 4/32, 5/3, 5/4, 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/18, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/36, 5/37, 5/38, 5/39, [5/45(a)], 6/6, 6/14, 6/15, 6/16, 6/18, [6/19(b)], 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 and 7/23 on the land plans and described in the book of reference and (where applicable on the terms of those provisions) land outside the Order limits except (in each aforementioned case) in respect of any interests of the Company; and</p> <p>(a) [Note to Examining Authority: reference to plot 5/45 is to be retained if the Examining Authority accepts the Applicant’s Change Application into the Examination and deleted if Proposed Change 3 is not accepted by the Examining Authority]</p> <p>(b) [Note to Examining Authority: reference to plot 6/19 is to be retained if the Examining Authority accepts the Applicant’s Change Application into the Examination and deleted if Proposed Change 3 is not accepted by the Examining Authority]</p>	Revision 4
2.	Article 4, Interpretation, Incorporation of the 1847 Act	As set out in the Statement of Common Ground with it, Trinity House requested that section 78 of the 1847 Act be incorporated into the dDCO and the Applicant was content to make the change (implemented in drafting terms by removing section 78 from the list of provisions <u>not</u> incorporated).	<p>Incorporation of the 1847 Act</p> <p>4. —(1) The 1847 Act, except sections 5 to 13, 16 to 25, 47 to 50, 77 to 79, 80, 85 to 102 and 104, so far as applicable for the purposes of and not inconsistent with this Order, is incorporated with and forms part of this Order, subject to the modifications set out in sub-paragraph (2).</p>	Revision 4

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
3.	Article 19, Authority to survey and investigate the land	<p>As requested by the Examining Authority, the Applicant has considered Article 26(6) of The HyNet Carbon Dioxide Pipeline Order 2024 which provides as follows:</p> <p><i>“As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove any apparatus and restore the land to the reasonable satisfaction of the owners of the land.”</i></p> <p>The Applicant is content to include wording to the same effect as a new Article 19(6) of the dDCO, with minor additions to clarify what apparatus and land is meant to the appropriate level of precision, and to clarify that the landowners cannot require the undertaker to breach the terms of the dDCO.</p>	<p><u>(6) As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove the apparatus used in connection with the activities and restore the land on which the activities were carried out to the reasonable satisfaction of the owners of the land; but the undertaker is not required to breach or fail to comply with a term of this Order.</u></p>	Revision 4

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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
4.	Article 31, Temporary use of land for constructing the authorised project	Minor revisions to the land plan references to reflect the two additional land plots required in connection with the Applicant's Change Application.	<p>(a) enter on and take temporary possession of—</p> <p>(i) the land shown shaded green on sheets 3, 4, <u>[5(a), 6(b)]</u> and 7 of the land plans, described in the book of reference and specified in columns (1) and (2) of Schedule 13 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and</p> <p><u>(a) [Note to Examining Authority: Reference to Sheet 5 of the land plans has been added to reflect changes to the land plans to reflect the addition of plot 5/45 on Sheet 5 of the land plans as part of the Applicant's Change Application, and is to be retained if the Examining Authority accepts Proposed Change 3 into the Examination, and deleted if Proposed Change 3 is not accepted].</u></p> <p><u>(b) [Note to Examining Authority: Reference to Sheet 6 of the land plans has been added to reflect changes to the land plans to reflect the addition of plot 6/19 on Sheet 5 of the land plans as part of the Applicant's Change Application, and is to be retained if the Examining Authority accepts Proposed Change 3 into the Examination, and deleted if Proposed Change 3 is not accepted].</u></p>	Revision 4
5.	Article 31, Temporary use of land for constructing the authorised project	The amendment is needed for the same reason as at Article 19(6), described above, to clarify that the landowners cannot require the undertaker to breach the terms of the dDCO.	<p>(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—</p> <p>(a) replace a building removed under this article;</p> <p>(b) restore the land on which any permanent works have been constructed under paragraph (1)(f);</p> <p>(c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised project;</p> <p>(d) remove or reposition any apparatus belonging to statutory undertakers, or measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised project;</p> <p>(e) remove or reposition necessary mitigation works;</p> <p>(f) remove any drainage works; or</p> <p>(g) restore ground levels adjusted as part of the authorised project; or</p> <p><u>(h) breach or fail to comply with a term of this Order.</u></p>	Revision 4

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
6.	Article 43, Area of jurisdiction to form part of the undertaking and application of byelaws	This is a correction of erroneous reference to the undertaker generally, when it should be a reference to the Company alone (i.e. ABP) as in the remainder of the Article, being the only body enforcing the byelaws.	<p>Area of jurisdiction to form part of the undertaking and application of byelaws</p> <p>43.—(1) The area of jurisdiction for all purposes forms part of the undertaking.</p> <p>(2) The Immingham Dock Byelaws 1929 are deemed to apply in relation to the limits within which the powers of the dock master may be exercised under article 42(1) (limits of dock master's jurisdiction) of this Order and may be enforced by the undertaker Company accordingly until such time as new byelaws relating to the area within such limits are made by the Company and come into operation.</p>	
7.	Article 46, Benefit of the Order	<p>This is to clarify that the various powers conferred on the Company (i.e. ABP), dock master or statutory harbour authority alone (i.e. those relating to harbour management such as Articles 4 (Incorporation of the 1847 Act), 43 (Area of jurisdiction to form part of the undertaking and application of byelaws), 44 (Power to appropriate) and 45 (Powers to dredge), to name a few) do not have effect for other bodies constituting the "undertaker" as defined in Article 2 (Interpretation).</p> <p>The provisions to which these paragraphs of Article 46 relate confer powers on the "undertaker", not the the Company, the dock master or</p>	<p>46.—(1) Subject to the remaining paragraphs of this article, the—</p> <p>(a) <u>the provisions of this Order conferring a power only on the Company, the dock master or the statutory harbour authority have effect solely for the benefit of (as applicable) the Company, the dock master or the statutory harbour authority; and</u></p> <p>(b) <u>the other</u> provisions of this Order have effect solely for the benefit of the undertaker.</p> <p>(2) (1) Paragraph (1)(1)(b) does not apply to the following provisions, of which the Company has the sole benefit—</p>	Revision 4

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		the statutory harbour authority alone, so only paragraph 1(b) of that Article applies.		
8.	Article 46, Benefit of the Order	Minor revisions to reflect the two additional land plots required in connection with the Applicant's Change Application.	(4) (3) Air Products has the benefit of the provisions to which paragraph (3) refers solely so far as they relate to the land shown as plots 3/2, 4/5, 4/7, 4/8, 4/9, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/26, 4/28, 4/29, 4/30, 4/32, 5/3, 5/4, 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/18, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/36, 5/37, 5/38, 5/39, <u>5/45(a)</u> , 6/6, 6/14, 6/15, 6/16, 6/18, <u>6/19(b)</u> , 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 and 7/23 on the land plans and described in the book of reference and (where applicable on the terms of those provisions) land outside the Order limits except (in each aforementioned case) in respect of any interests of the Company.	
9.	Article 46, Benefit of the Order	As mentioned at IS4, the new paragraph 13, mirroring article 6(16) (Benefit of the Order) of the Norfolk Vanguard Offshore Wind Farm Order 2020, necessarily clarifies that sections 72(7) and (8) of the 2009 Act do not apply to transfers of the deemed marine licence under paragraph 12. This is because those sections provide that a marine licence may not be transferred except in accordance with the 2009 Act, which would preclude transfer as part of the Order as proposed by the Applicant. The new paragraph 15 should be inserted for the avoidance	(12) (H) [An undertaker with the benefit of any provision of the deemed marine licence may pursuant to this sub-paragraph, with the consent of the Secretary of State— (a) transfer to any person any or all of the benefit of the provision and such related statutory rights as may be agreed between the undertaker and that person; (b) grant to any person for a period agreed between the undertaker and that person any or all of the benefit of the provision and such related statutory rights as may be so agreed between the undertaker and that person, but the Secretary of State must consult the MMO before giving such consent to the transfer or grant to another person of the benefit of the provision and such related statutory rights. <u>(13) Paragraphs (7) and (8) of section 72 of the 2009 Act do not apply to a transfer or grant of the benefit of any provision of the deemed marine licence pursuant to paragraph (12).</u> (14) (H2) Paragraph (H2) (12) does not prevent an application to the MMO pursuant to section 72(7) of the 2009 Act to transfer the deemed marine licence to another person and vary it accordingly. <u>(a)</u> <u>(15) [Paragraphs (7) and (8) of section 72 of the 2009 Act apply to any transfer of the deemed marine licence. (b)]</u>	Revision 4

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		<p>of doubt if transfer of the deemed marine licence is only to be pursuant to the 2009 Act, as proposed by the MMO, but deleted if this is not the Secretary of State's preference. The Applicant does not consider it appropriate to include the MMO's following wording at Paragraph 15, even if the MMO's approach is preferred by the Secretary of State: "For the avoidance of doubt article 46 does not apply to the MMO and sections 72(7) and (8) of the 2009 Act shall continue to apply to all parts of the deemed marine licence." This wording is an articulation of the MMO's general position but not appropriate legal drafting for a statutory instrument. "For the avoidance of doubt" is by convention almost always superfluous: a provision should be clear on its face. Article 46 is not about the MMO but about the deemed marine licence and other provisions of the Order. The Applicant's proposed Paragraph 15, even if the MMO's position is to be preferred, is clear that transfer</p>	<p><u>(a) [Note to Examining Authority: paragraphs (12) to (14) in square brackets are to be retained if the Secretary of State agrees that the deemed marine licence may be transferred either as part of the DCO or independently under the 2009 Act, as proposed by the Applicant, and deleted if not. Note that references to the deemed marine licence being excluding from paragraph (10) should be retained either way because in no circumstance do either the MMO or Applicant propose that it be capable of being transferred under that paragraph without Secretary of State or MMO approval.]</u></p> <p><u>(b) [Note to Examining Authority: paragraph (15) in square brackets is to be retained if the Secretary of State determines that the deemed marine licence may be transferred only independently under the 2009 Act, as proposed by the MMO, and deleted if not.]</u></p>	

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		<p>of the deemed marine licence is only to be pursuant to those relevant sections of the 2009 Act.</p> <p>Footnotes are included, as mentioned in ISH4, to assist the Examining Authority in understanding what paragraphs are to be retained or deleted depending on whether the Secretary of State determines that the undertaker should either be able to avail themselves of the procedure under paragraph 12 or that under section 72(7) of the 2009 Act for transfer of the deemed marine licence (in favour of which the Applicant has made representations) or the Secretary of State prefers the MMO's representation that transfer only via sections 72(7) and (8) of the 2009 Act is permissible.</p>		
10.	Article 63, Procedure regarding certain approvals	At ISH4 the Examining Authority suggested that in the Deadline 1 version of the dDCO the relationship between Articles 63(4) and (5) and Schedule 17 (Procedure regarding certain approvals,	(4) Subject to paragraph (5) (5), Schedule 17 (procedure regarding certain approvals, etc.) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to any provision <u>required or contemplated by any of the provisions</u> of this Order.	Revision 4

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		<p>etc.) could be made clearer. The Applicant agrees.</p> <p>Schedule 17 sets out a determination process for certain consents, agreements or approvals under the dDCO as well as an appeal mechanism, in the usual manner.</p> <p>First of all, therefore, in the Deadline 3 version of the dDCO the Applicant has deleted the words “granted, refused or withheld” before “consents, agreements or approvals” in Article 63(4) because otherwise it would not be clear that Schedule 17 applies not only to an appeal mechanism (for matters already “granted, refused or withheld”) but also to initial determination of the consents, agreements or approvals. The new wording at Article 46(4), shown in the column to the right, aligns better with that in Article 63(5) and Schedule 17 itself, further making that clear.</p> <p>Article 63(5) in the Deadline 3 version of the dDCO makes clear which consents,</p>		

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		<p>agreements or approvals Schedule 17 does not apply to (and the Applicant notes that it is clear that Articles 63(4) and 63(5) are to be read together). Article 63(5) is therefore key in clarifying how the scope of Schedule 17 is limited and cross reference to that Article has been inserted into the relevant provisions of Schedule 17 themselves in the Deadline 3 version of the dDCO (see rows below) to clarify additionally the limits of their scope:</p> <ul style="list-style-type: none"> • in the definition of the “relevant authorities” to whom Schedule 17 applies at paragraph 1 (Interpretation); • in the process for determining consents, agreements and approvals at paragraph 2 (Applications made under provisions of this Order); • in the process for appeals related to consents, agreements and 		

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		<p>approvals at paragraph 4 (Appeals).</p> <p>It is now considered that the relationship in the Deadline 3 version of the dDCO between Articles 63(4) and (5) of the dDCO and Schedule 17 is clear.</p>		
11.	Article 63, Procedure regarding certain approvals	<p>Following the discussion at Issue Specific Hearing 4 in relation to whether the discharge of marine licence conditions can be determined under Schedule 17, this amendment is to be made excluding the MMO from operation of that Schedule if the MMO's representations on the matter are preferred by the Examining Authority and Secretary of State. However, if the position of the Applicant is preferred, the wording in the column to the right should be deleted, meaning that the MMO is not to be excluded from the operation of the Schedule.</p>	<p>(5) Schedule 17 (procedure regarding certain approvals, etc.) does not apply—</p> <p>(b) [in respect of the MMO;](a) or</p> <p>(a) [Note to Examining Authority: The wording in square brackets is to be deleted if the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.).]</p>	Revision 4

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12.	Schedule 2, Requirements, (Paragraph 1)	As set out in their Statement of Common Ground submitted at Deadline 3, NELC has agreed with the Applicant that an outline operational travel plan is a suitable framework document to allow a detailed travel plan to be prepared for the part of the Project comprising the operation of the hydrogen production facility prior to operation of that facility and that a Requirement is needed to secure this. This is the definition needed for that Requirement.	<u>“outline operational travel plan” means the document of that name identified in the table at Schedule 15 (documents and plans to be certified) and which has been certified by the Secretary of State as the outline operational travel plan for the purposes of this Order;</u>	Revision 4
13.	Schedule 2, Requirements, (Paragraph 8)	Paragraph 8(2) (Highway works) of Schedule 2 (Requirements) of the dDCO has been revised, further to discussion with NELC, to provide that before the construction of the underground culvert forming part of Work No. 4 details of its design and construction methodology must be submitted to and approved by NELC. Paragraph 8(3) has been revised to require	<p><u>(2) Before the construction of the underground culvert forming part of Work No. 4 begins, written details of the design of such underground culvert, back-filling and making good to the highway and the construction methodology for its installation must be submitted to and approved by the relevant planning authority following consultation with the highway authority on matters related to its functions.</u></p> <p><u>(3) (4)—The permanent accesses and alterations referred to in sub-paragraph (4)(1) and the underground culvert, back-filling and making good referred to in sub-paragraph (2) must be constructed in accordance with the approved details, unless otherwise approved by the relevant planning authority following consultation with the highway authority on matters related to its function.</u></p>	Revision 4

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		compliance with the approved details.		
14.	Schedule 2, Requirements, (Paragraph 9)	Following NELC's response to Q1.18.5.1 of the ExA's first written questions, the Applicant has agreed to amend Requirement 9(3) to reduce the notification of emergency works from 72 hours to 24 hours.	(3) Any emergency works carried out under sub-paragraph (2)(b) (2)(b) must be notified to the relevant planning authority within 72 24 hours of being begun.	Revision 4
15.	Schedule 2, Requirements, (Paragraph 19)	The background to this change, agreed with NELC, is set out in row 12 above relating to the definition of "outline operational travel plan".	<p><u>Operational travel plan</u></p> <p><u>19.—(1) No part of the authorised project comprised in Work No. 3, Work No. 5 or Work No. 7 may be brought into operational use until an operational travel plan relating to that part of the authorised project has been submitted to and approved by the relevant planning authority.</u></p> <p><u>(2) Any operational travel plan submitted and approved under sub-paragraph (1) must be in general accordance with the outline operational travel plan.</u></p> <p><u>(3) Each part of Work No. 3, Work No. 5 and Work No. 7 must be operated in accordance with the approved operational travel plan for that part, unless otherwise approved by the relevant planning authority.</u></p>	Revision 4
16.	Schedule 3, Deemed Marine Licence (Paragraph 2(a)(iii))	Minor revisions to the number of monopiles to reflect the Applicant's Change Application.	<p>(iii) [two]a[four]b monopiles located in front of the jetty head or loading platform to provide fendering for smaller vessels;</p> <p><u>a [Note to Examining Authority: reference to two monopiles is to be deleted if the Examining Authority accepts the Applicant's Change Application into the Examination, as Proposed Change 1 as requested by the Applicant consists of an increase in the number of monopiles from the two monopiles in the original Application to four monopiles. If Change 1 is not accepted, then reference to two monopiles should be retained.]</u></p> <p><u>b [Note to Examining Authority: reference to four monopiles is to be retained if the Examining Authority accepts the Applicant's Change Application into the Examination, as Proposed Change 1 as requested by the Applicant consists of an increase in the number of monopiles from the two monopiles in the original Application to four monopiles. If Change 1 is not accepted then reference to four monopiles should be deleted.]</u></p>	Revision 4

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17.	Schedule 3, Deemed Marine Licence (Paragraph 11(a), 6 and 7)	These amendments are required following consultation with Natural England who wanted assurance on how the 200m buffer would be managed in practice.	<p>(a) A provision that no construction operations (other than to finish driving any pile that is in the process of being driven at the point that the cold weather restriction comes into force) within 200 metres of exposed-intertidal-foreshore<u>mean low water springs</u> may take place following seven consecutive days of zero or sub zero temperatures (where the temperature does not exceed zero degrees centigrade for more than six hours in any day or any other formula as may be agreed with the MMO to define short periods of thaw);</p> <p>(6) Subject to sub-paragraph (7)<u>(7)</u> below, the undertaker must ensure that no construction activity for the approach jetty or decommissioning of topsides takes place between 1 October and 31 March inclusive in any year located within 200 metres of the exposed-intertidal-foreshore<u>mean low water springs</u>.</p> <p>(7) During the restricted period between 1 October and 31 March inclusive in any year, marine construction activity or decommissioning of topsides may be undertaken at distances less than 200 metres of exposed-intertidal-foreshore<u>mean low water springs</u> provided that—</p>	Revision 4
18.	Schedule 3, Deemed Marine Licence (Paragraph 14)	The Environment Agency requested that the words “outside of the UK marine area” in Requirement 13 be deleted so that the requirement to comply with the flood risk assessment apply also beneath mean high water springs (“MHWS”). The Applicant is content with the principle but wishes to maintain a distinction between the Requirements, dealing with matters above MHWS, and the deemed marine licence, dealing with matters below MHWS. Accordingly, an equivalent deemed marine	<p><u>Flood risk assessment</u></p> <p><u>14. All licensed activities must be carried out in accordance with the approved flood risk assessment contained in appendix 18A of the environment statement, unless otherwise approved by the MMO.</u></p>	Revision 4

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		licence condition has been added at paragraph 14 of Schedule 3 as set out in the column to the right. In discussions the Environment Agency noted that it was content for the matter to be resolved in this manner and the Statement of Common Ground will be updated accordingly in due course.		
19.	Schedule 3, Deemed Marine Licence (Paragraph 27)	As discussed with the Examining Authority in Issue Specific Hearing 4, the dDCO now sets out in square brackets what wording is to be retained or deleted depending on whether the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.).	<p>(3) Where the MMO refuses the application the refusal notice must state the reasons for the refusal.](a)</p> <p>[Approvals and appeals</p> <p>28. Schedule 17 (procedure regarding certain approvals, etc.) of the Order has effect in relation to any submission by the undertaker for approval by or agreement of the MMO in respect of any document, strategy, information, plan, protocol or statement under this Schedule.] (b)</p> <p>(a) [Note to Examining Authority: Paragraphs 24 - 27 are to be deleted if the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.).]</p> <p>(b) [Note to Examining Authority: Paragraph 28 is to be retained if the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.).]</p>	Revision 4

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20.	Schedule 13, Land of which only temporary possession may be taken	Minor revisions to reflect the two additional land plots required in connection with the Applicant's Change Application.	<p>[5, 6] 5/45, 6/19</p> <p>The further associated development to which paragraph 11 of Part 1 (authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) or Schedule 1 (authorised project) refers(a)</p> <p>(a) [Note to Examining Authority: this row of Schedule 13 (land of which only temporary possession may be taken) has been added to incorporate new plots 5/45 and 6/19, shown on sheets 5 and 6 of the land plans respectively, which should be retained if the Examining Authority accepts the Applicant's Proposed Change 3 into the Examination. The row should be deleted if Proposed Change 3 is not accepted into the Examination.]</p>	Revision 4
21.	Schedule 14, Protective Provisions, Part 8, For the Protection of North East Lincolnshire Council (as Local Lead Flood Authority)	The dDCO submitted with the DCO application included protective provisions for the protection of NELC in its capacity as the relevant lead local flood authority at Schedule 14, Part 6. These protective provisions were amended following submission, resubmitted to NELC for its comments and these are the amendments reflected at this Deadline 3. As set out in the Statement of Common Ground between the Applicant and NELC, NELC has confirmed that these protective provisions are now considered to be appropriate.	<p>70.71. The provisions of this Part of this Schedule apply <u>whilst any part of the authorised project is being constructed</u> for the protection of the authority unless otherwise agreed between the undertaker and the authority.</p>	Revision 4

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			<p>“specified work” means any works carried out in relation to or which may affect any ordinary watercourse, drain or culvert in a manner that would be likely to affect the flow of the watercourse, <u>drain or culvert</u>.</p> <p>72.73. — sssss <u>(1)</u> Before beginning to construct any specified work, the undertaker must submit to the authority plans of the specified work and such further particulars available to it as the authority may within 28 days of the receipt of the plans reasonably require.</p> <p>(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the authority, or determined under sub-paragraph (3)<u>(3)</u>.</p> <p>(3) Any approval of the authority required under sub-paragraph (2)<u>(2)</u>—</p> <p>(a) must not be unreasonably withheld or delayed;</p> <p>(b) is deemed to have been given if it is neither given nor refused within 28 days of the receipt of the plans for approval or where further particulars are submitted under sub-paragraph (1)<u>(1)</u> within 28 days of the submission of those particulars, or where further particulars are received under sub-paragraph (1), within 28 days of the receipt of those particulars, and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and</p> <p>(c) may be given subject to such reasonable requirements as it may make for the protection of any drainage work or for the prevention of flooding and</p> <p>(d) the authority must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (b)<u>(b)</u>.</p> <p>74.75. — uuuuu <u>(1)</u> Subject to sub-paragraph (2)<u>(3)</u>, any specified work, and all protective works required by the authority under paragraph 8079 <u>must</u> be constructed—</p> <p>(a) without unnecessary<u>unreasonable</u> delay in accordance with the plans approved or settled under this Part of this Schedule; and</p> <p>75.76. — vvvvv <u>(1)</u> Subject to sub-paragraph (2)<u>(2)</u> the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified works <u>within the Order limits</u>, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.</p>	




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22.	Schedule 14, Protective Provisions, Part 8, For the Protection of the Internal Drainage Board	Articles 3(1)(a) to 3(1)(c) disapply the need for consents from the North East Lindsey Drainage Board ("NELDB") which would otherwise be required in respect of the Land Drainage Act 1991 and byelaws made under the Water Resources Act 1991 and the Land Drainage Act 1991. However, these disapplication provisions have been included so that they will be superseded by protective provisions in favour of NELDB which include equivalent approvals. A draft form of such protective provisions has been provided to NELDB and is now included on the face of the Order at Part 9 of Schedule 14. ABP and NELDB are working constructively towards agreeing the form of and these.	<p style="text-align: center;"><u>PART 9</u> <u>FOR THE PROTECTION OF THE INTERNAL DRAINAGE BOARD</u></p> <p><u>Application</u></p> <p><u>102. The provisions of this Part of this Schedule have effect for the protection of the Board unless otherwise agreed in writing between the undertaker and the Board.</u></p>	Revision 4

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			<p><u>Interpretation</u></p> <p><u>103. In this part of this Schedule—</u></p> <p><u>“construction” includes execution, placing, altering, replacing, relaying and removal; and “construct” and “constructed” must be construed accordingly;</u></p> <p><u>“drainage work” means any ordinary watercourse and includes any land that provides or is expected to provide flood storage capacity for any ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence in connection with an ordinary watercourse;</u></p> <p><u>“ordinary watercourse” has the meaning given in section 72 (Interpretation) of the Land Drainage Act 1991(a);</u></p> <p><u>“plans” includes sections, drawings, specifications and method statements;</u></p> <p><u>“specified works” means—</u></p> <p><u>(a) the making of any opening into or connections with any watercourse or drain in connection with the authorised development; and/or</u></p> <p><u>(b) so much of any work or operation of the authorised development as is in, on, under, over or within 9 metres of a drainage work for which the Board has responsibility or is otherwise likely to—</u></p> <p><u>(i) affect any such drainage work;</u></p> <p><u>(ii) affect the total volume or volumetric rate of flow of water in or flowing to or from any such drainage work;</u></p> <p><u>(iii) affect the flow of water in any such drainage work; or</u></p> <p><u>(iv) affect the conservation, distribution or use of water resources.</u></p> <p><u>104. The undertaker must not make any opening into or connections with any watercourse or drain in connection with the authorised development or carry out any specified work except—</u></p> <p><u>(a) in accordance with plans approved by the Board in accordance with this Part of this Schedule or determined under paragraph 111; and</u></p> <p><u>(b) where the Board has been given the opportunity to supervise the making of the opening or connection,</u></p>	

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			<p><u>and no discharge of water under article 18 (discharge of water) shall be made until details of the location and maximum rate of discharge have been submitted to and approved in writing by the Board (unless such location or maximum rate of discharge is in accordance with a drainage strategy approved under paragraph 12(1) of Schedule 2 (requirements)).</u></p> <p><u>(2) Before beginning to construct any specified work, the undertaker must submit to the Board plans of the specified work, and any such further particulars available to it as the Board may within 28 days of the submission of the plans reasonably require.</u></p> <p><u>(3) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Board or determined under paragraph 111.</u></p> <p><u>(4) Any approval of the Board required under this paragraph—</u></p> <p><u>(a) must not be unreasonably withheld or delayed;</u></p> <p><u>(b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval (or the submission of further particulars if applicable) or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; and</u></p> <p><u>(c) may be given subject to such reasonable requirements and conditions as the Board may consider appropriate.</u></p> <p><u>(5) The Board must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (4)(b).</u></p> <p><u>(a) 1991 c. 59. There are amendments to section 72 but none are relevant.</u></p> <p><u>(6) Where under this Part of this Schedule the Board is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that the Board complies with its obligations to consult other appropriate agencies, to have regard to any guidance issued by any appropriate supervisory body and has regard to its obligations under statute.</u></p>	

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			<p><u>105. Without limiting paragraph 104, the requirements which the Board may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—</u></p> <ul style="list-style-type: none"> <u>(a) to safeguard any drainage work against damage; or</u> <u>(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased, by reason of any specified work.</u> <p><u>106.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Board under paragraph 105, must be constructed—</u></p> <ul style="list-style-type: none"> <u>(a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and</u> <u>(b) to the reasonable satisfaction of the Board, and an officer of the Board is entitled to give such notice as may be reasonably required in the circumstances to watch and inspect the construction of such works.</u> <p><u>(2) The undertaker must give to the Board—</u></p> <ul style="list-style-type: none"> <u>(a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and</u> <u>(b) notice in writing of its completion not later than 7 days after the date on which it is brought into use.</u> <p><u>(2) The undertaker must give to the Board—</u></p> <ul style="list-style-type: none"> <u>(a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and</u> <u>(b) notice in writing of its completion not later than 7 days after the date on which it is brought into use.</u> <p><u>(3) If the Board reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work to which the protective works relate.</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>(4) If any part of a specified work or any protective work required by the Board is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Board may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Board in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Board reasonably requires.</u></p> <p><u>(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the Board may execute the works specified in the notice, and any expenditure reasonably incurred by it in so doing is recoverable from the undertaker</u></p> <p><u>(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Board must not except in emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally resolved by agreement or determined under paragraph 111.</u></p> <p><u>107. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Board and, if the undertaker fails to do so, the Board may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.</u></p> <p><u>108. The undertaker must pay to the Board all costs, charges and expenses that the Board may reasonably incur, have to pay or may sustain:</u></p> <ul style="list-style-type: none"> <u>(a) in the examination or approval of plans under this Part of this Schedule;</u> <u>(b) in inspecting the proposed site for and construction of any specified work or any protective works required by the Board under this Part of this Schedule; and</u> <u>(c) in carrying out any surveys or tests by the Board that are reasonably required in connection with the construction of the specified work.</u> 	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>109.—(1) Without limiting the other provisions of this Part of this Schedule, the undertaker must make reasonable compensation to the Board in respect of all claims, demands, proceedings, costs, damages, expenses or loss that are properly made or taken against, reasonably recovered from or reasonably incurred by the Board by reason of—</u></p> <p><u>(a) any damage to any drainage work arising out of construction of the specified work so as to impair its efficiency for the purposes of flood defence; and</u></p> <p><u>(b) any flooding or increased flooding of any such land which is caused by, or results from, the construction of the specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the work.</u></p> <p><u>(2) The Board must give to the undertaker reasonable notice of any such claims, demands, proceedings, costs, damages, expenses or loss and no settlement or compromise may be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.</u></p> <p><u>(3) The Board must at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses and losses.</u></p> <p><u>(4) In no circumstances will the undertaker be liable to the Board under or in connection with this Part of this Schedule for loss of profit or for any indirect or consequential loss howsoever arising.</u></p> <p><u>110. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the Board, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part of this Schedule.</u></p> <p><u>111. Any dispute between the undertaker and the Board under this Part of this Schedule, unless otherwise agreed, must be determined by arbitration under 62 (arbitration).</u></p>	
23.	Schedule 15, Documents and plans to be certified	The background to the need for an “outline operational travel plan”, agreed with NELC, is set out in row 12 above.	<p>outline operational travel plan   </p>	Revision 4

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
24.	Schedule 17, Procedure regarding certain approvals etc.	<p>It is clarified at appropriate junctures that provisions of the Schedule do not apply to the exceptions set out in Article 63(5) (see the comments made at row 10 above in respect of Article 63(4)).</p> <p>Even if the Examining Authority does not agree that the Schedule should apply to deemed marine licence conditions, it is sensible to change “requirement consultee” to “consultee”.</p> <p>Reference to DML conditions in paragraph 3 will be needed if the Applicant’s position that these should be subject to Schedule 17 is to be preferred, and deleted if not.</p> <p>Paragraph 5 is deleted because the Applicant has noted it erroneously duplicated the same provision from different precedent DCOs both in that paragraph and at Article 63(6) but it need only be in one provision (which will be Article 63(6)).</p>	<p>Interpretation</p> <p>1. In this Schedule—</p> <p>“appeal documentation” means a written statement of appeal which describes the nature of the differences between the parties, the factual issues, the undertaker’s case and evidence relied on;</p> <p>“relevant authority” means, <u>subject to article 63(5)</u>, any person, authority or body named in any of the provisions of this Order and whose consent, agreement or approval is sought; and</p> <p>“requirement consultee” means any body or authority named in a requirement or condition as a body to be consulted by the relevant authority in discharging that requirement or condition.</p> <p>Applications made under provisions of this Order</p> <p>2. — mmmmmm <u>(1)</u> Where an application has been made to the relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order (including consent, agreement or approval in respect of a requirement) <u>except as provided in article 63(5)</u> the relevant authority must give notice to the undertaker of their decision on the application within—</p> <ul style="list-style-type: none"> (a) in respect of all provisions (including the requirements in Schedule 2 (requirements)) a period of 42 days beginning with the day immediately following that on which the application is received by the relevant authority; (b) where further information is requested under paragraph 33 of this Schedule (further information and consultation), a period of 42 days beginning with the day immediately following that on which further information has been supplied by the undertaker; or (c) such period that is longer than the periods in sub-paragraphs (a)(a) or (b)(b) as may be agreed in writing by the undertaker and the relevant authority before the end of such period. <p>(2) In determining any application made to the relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order (including consent, agreement or approval in respect of a requirement) <u>except as provided in article 63(5)</u>, the relevant authority may—</p>	Revision 4

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>(4) Where an application has been made to the relevant authority for any consent, agreement or approval required by a requirement included in any of the provisions of this Order (except as provided in article 63(5)), and—</p> <p>(a) the relevant authority does not determine the application within the period set out in sub-paragraph (1)(1) and such application is accompanied by a report which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or</p> <p>(b) the relevant authority determines during the period set out in sub-paragraph (1)(1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>(5) The undertaker must include in any application made to the relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order <u>(except as provided in article 63(5))</u> a statement that the provisions of sub-paragraph (3)(3) apply and, if the application fails to do so, it is to be null and void.</p> <p>Further information and consultation</p> <p>3. — nnnnnn<u>(1)</u> In relation to any application submitted pursuant to a requirement in Schedule 2 (requirements) <u>[or condition in schedule 3 (deemed marine licence)(a)]</u>, the relevant authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.</p> <p>(2) In the event that the relevant authority considers additional further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required the relevant authority must, within 10 business days of receipt of the application, notify the undertaker in writing specifying the additional further information required.</p> <p>(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within five business days of receipt of the application, and must notify the undertaker in writing specifying any additional further information requested by the requirement consultee within 20 business days of receipt of the application.</p> <p>(4) In the event that the relevant authority does not give notification as specified in sub-paragraph (2)(2) or (3)(3) it is to be deemed to have sufficient information to consider the application and is not thereafter entitled to request additional further information without the prior agreement of the undertaker.</p> <p><u>(a) [Note to Examining Authority: the wording in square brackets is to be retained if the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.) and deleted if not.]</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Appeals</p> <p>4. oooooo(1) The undertaker may <u>(except as provided in article 63(5))</u> appeal in the event that—</p> <p>(a) the relevant authority refuses (including a deemed refusal pursuant to paragraph 2(4)<u>2(4)</u>) an application for any consent, agreement or approval required by an article of<u>1</u> requirement <u>or condition</u> included in this Order or grants it subject to conditions;</p> <p>Anticipatory steps towards compliance with any requirement</p> <p>5. If before this Order came into force the undertaker or any other person took any steps that were intended to be steps towards compliance with any provision of Schedule 2 (requirements), those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.</p>	