



# FIVE ESTUARIES OFFSHORE WIND FARM

SCHEDULE OF CHANGES TO THE DRAFT  
DEVELOPMENT CONSENT ORDER  
(TO REVISION H, DEADLINE 7)

Application Reference	N/A
Application Document Number	N/A
Revision	N/A
APFP Regulation:	N/A
Date	March 2025

Project	Five Estuaries Offshore Wind Farm
Sub-Project or Package	Draft Development Consent Order
Document Title	Schedule of changes to the Draft Development Consent Order
Application Document Number	N/A
Revision	N/A
APFP Regulation	N/A
Document Reference	

Revision	Date	Status/Reason for Issue	Originator	Checked	Approved
	October 2024	Deadline 1	Burges Salmon	VE OWFL	VE OWFL
	October 2024	Change Request	Burges Salmon	VE OWFL	VE OWFL
	November 2024	Deadline 3	Burges Salmon	VE OWFL	VE OWFL
	December 2024	Deadline 4	Burges Salmon	VE OWFL	VE OWFL
	January 2025	Deadline 5	Burges Salmon	VE OWFL	VE OWFL
	February 2025	Deadline 6	Burges Salmon	VE OWFL	VE OWFL
	March 2025	Deadline 7	Burges Salmon	VE OWFL	VE OWFL

**Table of Amendments to the Draft Development Consent Order – Revision H, Deadline 7**

Reference	Amendment	Reason
<b>Articles</b>		
Throughout	Checking and updating of cross references	To ensure that the draft is correct.
<b>Schedules</b>		
Schedule 2, Part 1 Requirement 2(3)	(3) Any part of Work No.2(c), any associated development or ancillary works located within the Sunk and Trinity Deep Water Routes, as shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan must be installed <u>and maintained</u> at a level which would not impede the dredging of those parts of the Sunk and Trinity Deep Water Routes.	To reflect agreement with interested parties, particularly the PLA
Schedule 2, Part 1 Requirement 4(2)	(2) The onshore works may not be commenced until details of the stages of the onshore works have been submitted to <del>and approved by</del> the discharging authority.	There is nothing in this document to be approved, it simply sets out the stages of the development to provide information on those for the discharge of other requirements.
Schedule 2, Part 1 Requirement 4	9 (1) Geoarchaeological and archaeological evaluation and mitigation <del>surveys</del> must be carried out in accordance with the archaeological mitigation strategy.	To reflect agreement with interested parties, particularly

	<p>(2) No stage of the onshore works may commence until, for that stage, an archaeological written scheme(s) of investigation in accordance with the outline onshore written schemes of investigation as appropriate for the relevant stage has been submitted to and approved by the discharging authority.</p> <p>(3) The onshore works must be carried out in accordance with <del>the approved archaeological</del> written scheme(s) of investigation as applicable in each stage <u>as approved under sub-paragraph (2)</u></p> <p>(4) Intrusive onshore site preparation works <del>including those necessary to allow production of any scheme required under sub-paragraph (2), must not take place until an archaeological or geoarchaeological written scheme(s) of investigation in accordance with the outline written scheme of investigation as appropriate has been submitted to and approved by the discharging authority must only take place in accordance the applicable details set out in an approved written scheme of investigation for such works. The archaeological or geoarchaeological written scheme(s) of investigation required under this sub-paragraph must be implemented as approved.</del></p> <p>(5) <u>(1) The archaeological post investigation assessment must be completed in accordance with the programme set out in the archaeological mitigation strategy and any relevant written scheme of investigation, and provision made for analysis, publication and dissemination of results and archive deposition.</u></p>			Historic England
Schedule 4, Part 2	FP <del>253</del> 179 <u>and FP17 179</u>	Between points Nx and Ny as shown on sheet 11 of the temporary closure of public rights of way plan		The Applicant has been advised that this PRow has been renumbered by the local authority
Schedule 6	<u>14-018, 14-019, 14-021, 14-022, 14-023, 14-024</u>	Creation, use and restoration of a public non-motorised user path	Work Nos. 12, 12A, 13, 13A, 14, 14A, 14B, 14C, 14D, 15, 16 and 17	Acquisition downgraded acquisition of rights temporary possession only.
	14-035, <u>14-036</u>	Temporary use as a construction compound (Work No. 14C) and construction working area, and haul route to facilitate	Work Nos. 13 and 13A	

		construction of the authorised development		
Schedule 7	Addition of plot 14-030 to cable rights Removal of now unused plots numbers			Acquisition downgraded from freehold acquisition to acquisition of rights only.
Schedule 9, all parts	All parts amended to reflect current status of negotiation or agreement and to amend cross referencing to all numbering to run on. New parts inserted: PART 10 For the protection of Port of London Authority (offshore) PART 12 For the protection of Anglian Water PART 13 For the protection of Affinity Water			To reflect the agreed or Applicant's preferred drafting as at Deadline 7.  Please see separate document 10.62, Note on dDCO drafting – Applicant's position on Protective Provisions
Schedule 10, Part 2 Paragraph 3(3)	In undertaking activities under condition 3(2)(d), (e) and (f), the undertaker must not reduce water depth by more than 5% unless agreed with the MMO in writing following consultation with the MCA.			To reflect agreement with interested parties, particularly the PLA
Schedule 10, Part 2 Paragraph 3(4)	An operation and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan <a href="#">and, in so far as is relevant, the principles of the outline cable installation and specification plan</a> must be submitted to the MMO for approval in consultation with the relevant SNCB and the MCA at least six months prior to the commencement of the operation of the licensed activities. All operation and maintenance activities must be carried out in accordance with the approved plan.			To reflect discussion with interested parties, particularly London Gateway Port
Schedule 10, Part 2 Paragraph 14(1)	No piling activities can take place until a southern north sea special area of conservation site integrity plan ("SIP"), which accords with the principles set out in the outline southern north sea special area of conservation site integrity plan, <del>which accords with the principles set out in the,</del> has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.			The wording is not required

Schedule 10, Part 2 Paragraph 14(4)	In approving the SIP the MMO must <del>be satisfied that</del> <u>determine whether</u> the authorised scheme at the preconstruction stage, in-combination with other plans and projects, <u>would be</u> <del>is</del> in line with the JNCC Guidance.	To reflect a change suggested by the ExA
Schedule 10, Part 2 Paragraph 14(5)	The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO <del>remains satisfied</del> <u>determines</u> that the <del>Project</del> <u>authorised development</u> , in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance.	To reflect a change suggested by the ExA
Schedule 10, Part 2 Paragraph 19(2)	The results of the initial noise measurements monitored in accordance with subparagraph 18(2)(b) must be provided in writing to the MMO within nine weeks of the installation (unless otherwise agreed) of the first of the four piled foundations monitored in accordance with subparagraph (1). The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, <del>in the reasonable opinion of</del> the MMO, in consultation with the statutory nature conservation body, <u>determines that</u> the assessment shows impacts significantly in excess to those assessed in the environmental statement, <del>and or</del> there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.	To reflect changes suggested by the ExA and MMO
Schedule 11, Part 2 Paragraph 4(3)	In undertaking activities under condition 4(2)( <del>d</del> ), ( <del>e</del> ) <u>and</u> (f), other than in areas shown shaded yellow on the Deep water Route Cable <del>ed</del> Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% referenced to Chart Datum unless agreed with the MMO in writing following consultation with the MCA.	To reflect agreement with interested parties, particularly the PLA
Schedule 11, Part 2 Paragraph 4(4)	An operation and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan, <u>and, in so far as is relevant, the principles of the outline cable installation and maintenance plan</u> , must be submitted to the MMO for approval in consultation with the relevant SNCB and the MCA at least six months prior to the commencement of the	To reflect discussion with interested parties, particularly London Gateway Port

	operation of the licensed activities. All operation and maintenance activities must be carried out in accordance with the approved plan.			
Schedule 11, Part 2 Paragraph 13(1) (g) (iv)	proposals for the <a href="#">cable laying methodology</a> , volume and areas of cable protection within the Margate and Long Sands special area of conservation, and proposals for timing and methodology for reporting on actual volumes and areas post construction, in accordance with the Margate and Long Sands special area of conservation benthic mitigation plan; and			To better reflect the detail that is required
Schedule 11, Part 2 Paragraph 15(4)	In approving the SIP the MMO must be <del>satisfied that</del> <a href="#">determine whether</a> the authorised scheme at the preconstruction stage, in-combination with other plans and projects, <del>is</del> <a href="#">would be</a> in line with the JNCC Guidance.			To reflect a change suggested by the ExA
Schedule 11, Part 2 Paragraph 15(5)	The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO <del>remains satisfied</del> <a href="#">determines</a> that the <del>Project</del> <a href="#">authorised development</a> , in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance			To reflect a change suggested by the ExA
Schedule 11, Part 2 Paragraph 20(2)	The results of the initial noise measurements monitored in accordance with subparagraph 19(1) must be provided in writing to the MMO within nine weeks of the installation (unless otherwise agreed) of the first piled foundation monitored in accordance with sub-paragraph (1). The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, <del>in the reasonable opinion of</del> the MMO <a href="#">determines</a> , in consultation with the statutory nature conservation body, <a href="#">that</a> the assessment shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.			To reflect a change suggested by the ExA
Schedule 12, Part 1	21/00091/TPO	Welhams Farm, Bentley Road, Little Bentley	G.1 (comprising 3 oaks and 2 ash)	To correct an error in the TPO number
Schedule 15	The revision numbers and dates have been updated to reflect the position as at Deadline 7			Updated to the current numbering

## **Table of Amendments to the Draft Development Consent Order – Revision G, Deadline 6**

Reference	Amendment	Reason
<b>Articles</b>		
Preamble	The Secretary of State, in exercise of the powers conferred by sections [114, 115, 120, <a href="#">122</a> , 132, 140 and 149A and schedule 5] to the 2008 Act, makes the following Order:	Reviewed and amended for completeness
Article 2 - Interpretation	<p><a href="#">“archaeological mitigation strategy” means the document certified as such by the Secretary of State under article 44 (certification of plans, etc) for the purposes of this Order;</a></p> <p>“cable” means up to 400 kilovolts cables for the transmission of electricity and includes direct lay cables, cables laid in cable ducts or protective covers, and further includes fibre optic and other communications cables either within the cable or laid alongside;</p> <p>“compensatory works” means <del>Work No.18 (comprised of</del> Work Nos. 18A and 18B) to provide compensatory measures for Lesser Black Back Gulls;</p> <p><a href="#">“Deep Water Route Cable Installation Area (Future Dredging depths) plan” means the document certified as such by the Secretary of State under article 44 (certification of plans, etc) for the purposes of this Order;</a></p> <p><a href="#">“discharging authority” for the purposes of Schedule 2 of this Order means Essex County Council;</a></p>	<p>Addition of definitions for new certified documents related to other changes</p> <p>Work No.18 amended in line with ExA comments</p>



	<p><u>“outline groundwater monitoring plan” means the document certified as such by the Secretary of State under article 44 (certification of plans, etc)for the purposes of this Order;</u></p> <p>“outline landscape and ecologicaly management plan” means the document certified as such by the Secretary of State under article 44 (certification of plans, etc)for the purposes of this Order;</p>	
Article 9 – Defence to proceedings in respect of statutory nuisance	<p>In sub-paragraph (2)(c)</p> <p>(c) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised <del>project</del> development and that the nuisance is attributable to the use of the authorised <del>project</del> development which is being used in compliance with requirement 17 (control of noise during the operational stage); or’</p>	Amended in line with ExA comments
Article 38 – Trees subject to tree preservation orders	<p>In sub-paragraph (2) and sub-paragraph (2)(b)</p> <p>(2) The undertaker may fell or lop any tree within or encroaching upon the Order limits that is subject to a tree preservation order <u>which</u> is not listed in Schedule 12 Part 1 (trees subject to tree preservation orders) <del>and for which a</del> tree preservation order which was made after 12 March 2024, or cut back its roots, if it reasonably believes it to be necessary in order to do so in order to prevent the tree—</p> <p>(b) from constituting <del>an unacceptable source of a</del> danger- <u>to persons within the authorised development.</u> <del>(whether to children or to other persons).</del></p>	Amended in line with ExA comments
Article 43 – Application of the 1990 Act	<p>In sub-paragraph (4)</p> <p>(4) As from the date of this Order where planning permission (whether express or otherwise) is granted (whether prior to the date of this Order or after) pursuant to Part 3 of the 1990 Act in respect of land within the Order limits for development not forming part of the authorised development, the carrying out of development pursuant to such planning permission is not to operate to prevent the undertaker from carrying out further works for the development of the authorised <del>project</del> development pursuant to the terms of this Order.</p>	Amended in line with ExA comments

Schedules		
Schedule 1, Part 1 – Authorised Development	<p><i>Work No. 4</i> — Installation of up to two buried cable circuits within cable ducts between Work No. 3 and Work No. 5, <u>approximately 500m.</u> including trenchless installation technique works.</p> <p><i>Work No. 4A</i> —Construction of a temporary construction compound and laydown area (Beach Works <del>T</del><u>temporary construction c</u><del>Compound</del>), improvement and use of existing access routes including creation of construction access to Work Nos. 3, 4, and 5, works to junctions and visibility splays, temporary construction working areas and laydown area.</p> <p><i>Work No. 5</i> — Installation of up to two buried cable circuits within cable ducts, <u>approximately 215m.</u> and—</p>	Insertion of works lengths as requested by ExA
	<p>Work No. 15A paragraph (h)</p> <p>(h) installation of up to two buried 400_kilovolt<u>s</u> cable circuits within cable ducts (if required);</p>	Amended in line with ExA comments
	<p>Work No. 16 paragraphs (a) and (b)</p> <p>(a) works needed to connect the authorised <del>project</del>-development to the new National Grid substation including (but not limited to) cabling, cable sealing ends, circuit breakers, surge arrestors, dis-connectors, transformers, busbars and busbar clamp measuring equipment, relay marshalling rooms and electrical earthing works;</p> <p>(b) installation of up to two buried 400_kilovolt<u>s</u> cable circuits with cable ducts (if required) between Work No. 15 and the national grid substation; including cable ducts, trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;</p>	Amended in line with ExA comments
	<del>Work No. 18</del> —Compensatory works for Lesser Black Backed Gull comprising:	Amended in line with ExA comments
	<u>Associated development in connection with Work Nos. 1 to 3</u>	Amended in line with ExA comments

	<p><del>and a</del>Any associated development and in connection with Work Nos. 1 to 3 <del>and</del> to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—</p> <p><u>Associated development in connection with Work Nos. 4 to 18B</u></p> <p><del>and</del> Any associated development <del>i</del>n connection with Work Nos. 4 to 18B <del>and</del> to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—</p>	
		Amended in line with ExA comments
Schedule 2, Part 1, Requirements, paragraph 2	<p><u>(2) The offshore works must be constructed in accordance with the parameters set out in Table 1.</u></p> <p><u>(3) Any part of Work No.2(c), any associated development or ancillary works located within the Sunk and Trinity Deep Water Routes, as shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan must be installed at a level which would not impede the dredging of those parts of the Sunk and Trinity Deep Water Routes:</u></p> <p><u>(c) shown shaded in yellow and outlined in a bold black line (and labelled Sunk Area A (22m CD)) to a level of 22 metres below Chart Datum;</u></p> <p><u>(d) shown shaded in yellow and outlined in a blue dotted line (and labelled Trinty (22m CD)) to a level of 22 metres below Chart Datum; and</u></p> <p><u>(e) shown shaded in yellow and cross hatched in orange (and labelled Sunk Area B (19m CD)) to a level of 19 metres below Chart Datum.</u></p> <p>the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this <u>sub</u>-paragraph and of the completion of the construction of the offshore works.</p> <p><del>(5)</del><u>(4)</u> The lights installed in accordance with <u>sub</u>-paragraph (1) will be operated at the lowest permissible lighting intensity level.</p>	Draft deep water route parameter wording shown in situ and with consequential amends elsewhere to accompany R17 response

Schedule 2, Part 1, Requirements, paragraph 4	<p><b>4.</b>(1) The onshore works may not be commenced until notification has been submitted to the <del>relevant planning</del> <u>discharging</u> authority detailing whether the onshore works will be constructed:</p> <ul style="list-style-type: none"> <li>(a) in a single stage; or</li> <li>(b) in two or more stages.</li> </ul> <p>(2) The onshore works may not be commenced until details of the stages of the onshore works have been submitted to and approved by the <u>discharging</u> <del>relevant planning</del> authority.</p>	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority
Schedule 2, Part 1, Requirements, paragraph 5	<p>In sub-paragraphs (d), (e) &amp; (f)</p> <ul style="list-style-type: none"> <li>(d) <u>external</u> hard surfacing materials;</li> <li>(e) the dimensions, <u>external</u> colour and materials used for the buildings;</li> <li>(f) security fencing, <u>height</u> colour and materials;</li> </ul> <p>have been submitted to and approved by the <del>relevant planning</del> <u>discharging</u> authority.</p> <p>In sub-paragraph (3)</p> <p>(3) In relation to Work No. 15B <del>(the onshore electrical substation)</del> —</p> <p>In sub-paragraph (5)</p> <p>(5) Work No. 15B must not be commenced until a written landscaping scheme and associated work programme in accordance with the outline landscape and ecology management plan for Work No. 15 has been submitted to and approved by the <u>discharging</u> <del>relevant planning</del> authority.</p>	Amended in line with ExA comments
Schedule 2, Part 1, Requirements, paragraph 6 and sub-paragraph (2)	<p><b>5.</b>—(1) The onshore works must be undertaken in accordance with the provisions of the code of construction practice or any revision thereof approved <u>by the discharging authority</u> <del>under sub-paragraph (2)</del>.</p> <p>(2) Onshore site preparation works must only take place in accordance with the relevant details set out in the code of construction practice or any revision thereof approved by the <u>discharging</u> <del>relevant planning</del> authority.</p>	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority

Schedule 2, Part 1, Requirements, paragraph 7	7.—(4) No stage of the onshore works may commence until for that stage the following plans have been submitted to and approved by the <del>discharging local highway</del> authority;	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority
Schedule 2, Part 1, Requirements, paragraph 8	8.—(1) No new permanent means of access to a highway to be used by vehicular traffic, or any permanent alteration to an existing means of access to a highway used by vehicular traffic may be formed until written details of the design, layout and siting of that new or altered access have been submitted to and approved by <del>discharging the relevant planning</del> authority in consultation with the highway authority.	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority
Schedule 2, Part 1, Requirements, paragraph 9(1), (2), (3) & (4)	<p><u>9.—(1) Geo-archaeological and archaeological evaluation and mitigation surveys must be carried out in accordance with the archaeological mitigation strategy.</u></p> <p>(2) No stage of the onshore works may commence until, for that stage, an archaeological written scheme(s) of investigation in accordance with the outline onshore written schemes of investigation as appropriate for the relevant stage has been submitted to and approved by the <del>discharging relevant planning</del> authority.</p> <p>(3) The onshore works must be carried out in accordance with the approved archaeological written scheme(s) of investigation as applicable in each stage.</p> <p>(4) <del>Q</del> <u>Intrusive</u> onshore site preparation works, including those necessary <del>-to allow production of any scheme required under sub-paragraph (12), must only take place in accordance with the applicable details set out in the an approved written scheme of investigation for such works.</del></p>	Amended in response to IP comments to be clear that survey works must be carried out in accordance with the mitigation strategy
Schedule 2, Part 1, Requirements, paragraph 10(1), (2) & (3)	<p><b>Landscape and Ecological<del>y</del> management plan</b></p> <p><del>9,10</del>.—(1) No stage of the onshore works may commence until for that stage a written landscape and ecology management plan in accordance with the outline landscape and ecology management plan as appropriate for the relevant stage, has been submitted to and approved by the <del>discharging relevant planning</del> authority.</p> <p>(2) The landscape and ecological<del>y</del> management plan(s) submitted under sub-paragraph (1) must include an implementation timetable and must be implemented as approved as applicable in each stage.</p>	Amended in line with ExA comments

	(3) Onshore site preparation works must only take place in accordance with the relevant details set out in the outline landscape and ecological management plan as certified.	
Schedule 2, Part 1, Requirements, paragraph 11	<del>10.11.</del> —(1) No stage of the onshore works may commence until, for that stage, a soil management plan in accordance with the measures set out in the code of construction practice as appropriate for the relevant stage, has been submitted to and approved by the <del>relevant planning</del> <a href="#">discharging</a> authority.	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority
Schedule 2, Part 1, Requirements, paragraph 12 sub-paragraph (3)	(3) Where a European protected species or nationally protected species under the Wildlife and Countryside Act 1981 is shown to be present, the stage of the onshore works or compensatory works likely to affect the species must not commence until a scheme of protection and mitigation measures for that stage has been submitted to the <a href="#">discharging authority in the case of the onshore works</a> , or the relevant planning authority <a href="#">in the case of the compensatory works</a> .	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority
Schedule 2, Part 1, Requirements, paragraph 13	<del>13.</del> —(4) <a href="#">No stage of the onshore works for which a groundwater monitoring plan is required in accordance with the outline groundwater monitoring plan. The undertaker must prepare and submit to the relevant planning authority for approval a scheme of investigation of hydraulic connectivity of groundwater supplying private water supplies. must be commenced until, for that stage a groundwater monitoring plan has been submitted to and approved by the discharging authority</a> <a href="#">(2) Sub-paragraph (1) does not apply to any works or surveying and investigation necessary to inform the preparation of a groundwater monitoring plan.</a> <del>(5)(3) The Any scheme plan</del> approved under sub-paragraph (1) must be implemented as approved.	Amended following completion of the groundwater investigation works and preparation of the outline plan
Schedule 2, Part 1, Requirements, paragraph 14	<del>14.12.</del> Subject to requirement 19(4), any land which is used temporarily for construction of the onshore works and not ultimately incorporated in permanent works or approved landscaping, must be reinstated within twelve months of completion of the relevant stage of the onshore works or such other time period as may be agreed in writing with the <del>relevant planning</del> <a href="#">discharging</a> authority.	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority
Schedule 2, Part 1, Requirements, paragraph 15 sub-paragraph (2)	(2) Prior to commencement of operation of Work 15B, a noise investigation protocol must be submitted to and approved by the <del>relevant planning</del> <a href="#">discharging</a> authority.	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority

Schedule 2, Part 1, Requirements, paragraph 16	<b>16.</b> —(4) The onshore works and offshore works <u>other than Works No.13, 13A, 18A and 18B</u> <del>must</del> <u>ay</u> not commence until a skills and employment strategy, substantially in accordance with the outline skills and employment strategy has been submitted to and approved by the <u>discharging</u> <del>relevant planning</del> authority.	Amended to exclude the early works to Bentely Rd and compensation works which may be started ahead of the main works to which the plan will apply
Schedule 2, Part 1, Requirements, paragraph 17	<b>17.</b> —(1) <del>No part of t</del> <u>he</u> compensatory works <del>must not</del> <u>ay</u> be commenced under this Order until details of—	Amended in line with ExA comments
Schedule 2, Part 1, Requirements, paragraph 19, sub-paragraph (2) & (3)	<b>19.</b> —(4) In the event that any temporary works which have been constructed pursuant to any development consent order that may be made by the Secretary of State in relation to North Falls are proposed to be reused by the undertaker in connection with the authorised development, such reuse <del>must</del> <u>ay</u> not <u>be</u> commenced until a scheme which accords with <u>sub</u> -paragraph (2) has been submitted to and approved by the <u>discharging</u> <del>relevant planning</del> authority. (5) The scheme to be submitted for approval under <u>sub</u> -paragraph (1) must include details of the temporary works to be reused and a timetable for their reuse and restoration or reinstatement. (6) Any scheme approved under <u>sub</u> -paragraph (2) must be implemented as approved.	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority
Schedule 2, Part 1, Requirements, paragraph 20	<b>20.</b> —(1) Work No. 15 <del>must</del> <u>ay</u> not <u>be</u> commenced until a net gain strategy has been submitted to and approved by the <u>discharging</u> <del>relevant planning</del> authority.	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority
Schedule 2, Part 1, Requirements, paragraph 21	<b>21.</b> <del>The</del> <u>Ne</u> offshore works <del>must</del> <u>ay not be</u> commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) (requirement to prepare decommissioning programmes) of the 2004 Act has been submitted to the Secretary of State for approval.	Amended in line with ExA comments

Schedule 2, Part 1, Requirements, paragraph 22	<b>22.</b> Where under any of the above requirements the approval or agreement of the Secretary of State, <a href="#">the discharging authority or</a> , the relevant planning authority <del>or another person is required</del> , that approval or agreement must be given in writing.	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority
Schedule 2, Part 2, approval of matters specified in requirements, paragraph 2	<p><b>2.—</b>(4) Where an application has been made to the <a href="#">discharging authority or the</a> relevant planning authority for any agreement or approval required pursuant to a requirement included in this Order, the <a href="#">discharging authority or</a> relevant planning authority must give notice to the undertaker of their decision, including the reasons, on the application, within a period of 8 weeks beginning with—</p> <p>(a) the day immediately following that on which the application is received by <a href="#">the discharging authority or</a> the relevant planning authority;</p> <p>(b) such longer period as may be agreed by the undertaker and <a href="#">the discharging authority or</a> the relevant planning authority.</p> <p>(2) In determining any application made to the <a href="#">discharging authority or</a> relevant planning authority for any consent, agreement or approval required by a requirement contained in Part 1 of Schedule 2 of this Order, the discharging authority may—</p> <p><a href="#">(3) <del>With the exception of Requirement 5,</del> in the event that the discharging authority or relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority or relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.</a></p> <p><a href="#">(3)(4) With respect to Requirement 5, where an application has been made to the discharging authority or relevant planning authority for any agreement or approval required pursuant to those requirements and the discharging authority or the relevant planning authority has not given notice to the undertaker of their decision within the period set out in sub-paragraph (1), within a period of 8 weeks or by the conclusion of such period as may be extended by agreement under sub-paragraph (1)(b), then the application shall be deemed to have been refused consent.</a></p>	<p>Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority</p> <p>Amended in line with ExA comments</p>
Schedule 2, Part 2, approval of matters specified in requirements, paragraph 3, sub-paragraph (2), (3) & (4)	<p><b>3.—</b>(2) Where an application has been made under paragraph 2 <a href="#">the discharging authority or</a> the relevant planning authority has the right to request such reasonable further information from the undertaker as is necessary to enable it to consider the application.</p> <p>(3) If <a href="#">the discharging authority or</a> the relevant planning authority considers further information is needed, and the requirement does not specify that consultation with a requirement consultee</p>	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority



	<p>is required, it must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.</p> <p>(4) If the requirement indicates that consultation must take place with a consultee <del>the</del> <a href="#">the discharging authority or the</a> relevant planning authority must issue the consultation to the requirement consultee within five days of receipt of the application. Where the consultee requires further information they must notify <a href="#">the discharging authority or</a> the relevant planning authority in writing specifying the further information required within 14 days of receipt of the consultation. The <del>discharging authority or the</del> relevant planning authority must notify the undertaker in writing specifying any further information requested by the consultee within five working days of receipt of such a request.</p> <p>(5) In the event that the <a href="#">discharging authority or the</a> relevant planning authority does not give such notification as specified in sub-paragraphs (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.</p>	
Schedule 2, Part 2, approval of matters specified in requirements, paragraph 3	<p>5. Where an application is made to the <a href="#">discharging authority or the</a> relevant planning authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in Regulation 16(1)(b) of the <del>Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012</del> <a href="#">S(1)</a> (as may be amended from time to time) is to be paid by the undertaker to <a href="#">the discharging authority or the</a> relevant planning authority in accordance with these regulations <a href="#">unless a bespoke arrangement has been agreed between the Applicant and discharging authority and legally secured</a>.</p>	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority and in response to a request from ECC
Schedule 2, Part 2, approval of matters specified in requirements, paragraph 6(1) sub-paragraphs (a) & (b)	<p>(a) <a href="#">the discharging authority or</a> the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions; or</p> <p>(b) <a href="#">the discharging authority or</a> the relevant planning authority fails to determine any application within the time period specified in paragraph 2.</p> <p>In sub-paragraph (3)(a), (b) &amp; (c)</p>	Amended following confirmation from Essex and Tendring Councils that ECC will act as discharging authority

<sup>(1)</sup> [S.I. 2012/2920](#)

	<p>(a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to <a href="#">the discharging authority</a> or the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);</p> <p>(b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (the “appointed person”) to determine the appeal and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (3);</p> <p>(c) <a href="#">the discharging authority</a> or the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within ten working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;]</p> <p>In sub-paragraph (6)</p> <p>(6) Any further information required under sub-paragraph (5) must be provided by the appeal party from whom the further information was requested to the appointed person and other appeal parties, the <a href="#">the discharging authority or</a> relevant planning authority and any consultee required to be consulted pursuant to the requirement the subject of the appeal on the date specified by the appointed person (the “specified date”), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten working days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub-paragraphs (3)(c) to (3)(e).</p> <p>In sub-paragraph (7)(b)</p> <p>(b) reverse or vary any part of the decision of the <a href="#">discharging authority or the</a> relevant planning authority (whether the appeal relates to that part of it or not); and</p> <p>In sub-paragraph (11), (12) &amp; (13)</p>	
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	<p>(11) If an approval is given by the appointed person pursuant to this paragraph, it is to be deemed to be an approval for the purpose of Part 1 of Schedule 2 (requirements) as if it had been given by <a href="#">the discharging authority or</a> the relevant planning authority.</p> <p>(12) Save where a direction is given pursuant to sub-paragraph (13) requiring the costs of the appointed person to be paid by the <del>discharging authority or the</del> relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.</p> <p>(13) On application by <a href="#">the discharging authority or</a> the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to relevant guidance on the Planning Practice Guidance website or any official circular or guidance which may from time to time replace it.</p>	
Schedule 7, land in which only new rights etc. may be acquired	<p>(c) to prevent anything to be done by way of excavation of any kind in the Land nor any activities which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development, alter, increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker(<a href="#">such consent not to be unreasonably withheld or delayed</a>) save as are reasonably required for agricultural activities (being ploughing to no deeper than 0.6 metres for the purposes of arable farming) or are required to be carried out by National Grid in order to exercise their statutory functions or rights in relation to their apparatus (if any) within the Land;</p>	Amended to make it clear that consent cannot be unreasonably withheld or delayed as discussed in CAH3
schedule 9, Part 3, for the Environment Agency, paragraph 1 sub-paragraph (2)	<p>“drainage work” means any <a href="#">(i) main river</a> and includes any land which provides <del>or is expected to provide</del> flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring <a href="#">and (ii) any sea defence</a>;</p> <p>“fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;</p> <p>“main river” <a href="#">has the same meaning given in section 113 of the Water Resources Act 1991</a>; <del>means all watercourses shown as such on the statutory main river maps held by the</del></p>	Amended in response to requests from the EA

	<p><del>Agency and the Department for Environment, Food and Rural Affairs including any structure or appliance for controlling or regulating the flow of water in or out of the channel;</del></p> <p>“plans” includes sections, drawings, specifications, calculations and method statements;</p> <p><u>“sea defence” means any bank, wall, embankment (and any berm, counter wall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the Environment Agency’s area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949 or by any local authority or any navigation, harbour or conservancy authority; and</u></p> <p>“specified work” means</p> <p><u>(i) so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres</u> <del>of a drainage work involving of</del> a tidal main river or 8 metres of <del>a drainage work involving</del> a non-tidal main river, or is otherwise likely to—</p> <p>(d) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;</p> <p>(e) affect the flow, purity or quality of water in any <del>watercourse or other surface waters or ground water</del> <u>main river</u>;</p> <p>(f) cause obstruction to the free passage of fish or damage to any fishery;</p> <p>(g) affect the conservation, distribution or use of water resources; or</p> <p><u>(h) affect the conservation value of the main river and habitats in its immediate vicinity; and or</u></p> <p><u>(ii) so much of any work or operation authorised by this Order as is in, on under, over or within 16 metres of a sea defence which is likely to endanger the stability of, cause damage to or reduce the effectiveness of that sea defence, or interfere with the Agency’s access to or along that sea defence.</u></p> <p><del>“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.</del></p>	
Schedule 9, Part 3, for the Environment Agency, paragraph 2	<u><b>Submission and approval of plans</b></u>	

	<p>(c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution, <u>or for nature conservation</u>, or in the discharge of its environmental duties.</p> <p><u>(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).</u></p> <p><del>(14)</del><u>(5) If the Agency refuses any approval required under this paragraph then the refusal must be accompanied by a statement of the grounds for refusal</u></p>	
Schedule 9, Part 3, for the Environment Agency, paragraph 3	<p><u>Construction of protective works</u></p> <p>Without limiting paragraph 2, <u>but subject always to the provisions of that paragraph as to reasonableness</u> the requirements which the Agency may have under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new <del>112</del> works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—</p>	
Schedule 9, Part 3, for the Environment Agency, paragraph 4	<p><u>Timing of works and service of notices</u></p> <p><b>4.</b>—(4) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 3, must be constructed—</p> <p>(a) without unreasonable delay in accordance with the plans approved under this Part <u>of this Schedule</u>; and</p> <p>(b) to the reasonable satisfaction of the Agency, and the Agency is entitled by its officer to watch and inspect the construction of such works.</p> <p>(5) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of <del>the any</del> specified work <u>to which the protective works relate</u> <del>and notice in writing of its completion not later than 7 days after the date on which it is completed.</del></p>	

	<del>(6) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work.</del>	
Schedule 9, Part 3, for the Environment Agency, paragraph 5	<p><u>Works not in accordance with this Part of this Schedule</u></p> <p>5.<del>(1)</del> If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part <u>of this Schedule</u>, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part <u>of this Schedule</u>, or (if the undertaker so elects and the Agency 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 Agency reasonably requires.</p> <p>(2) Subject to sub-paragraph <del>(3)(6) and paragraph 9</del>, if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (4) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice, and any expenditure <u>reasonably</u> incurred by the Agency in so doing <del>will be</del> <u>is</u> recoverable from the undertaker.</p> <p>(3) In the event of any dispute as to whether sub-paragraph <del>(4)</del> <u>(1)</u> 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 Agency <del>must</del> <u>may</u> not, except in the case of an emergency, exercise the powers conferred by sub-paragraph <del>(25)</del> until the dispute has been finally determined in accordance with paragraph 1<del>3</del> <u>4</u>.</p>	
Schedule 9, Part 3, for the Environment Agency, paragraph 6	<p><u>Maintenance of works</u></p> <p>6-(1) Subject to sub-paragraph (6) 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 <del>limits of deviation</del> <u>Order land</u> and on land held by the undertaker for the purposes of or in connection with the specified works,</p>	

	<p>whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.</p> <p>In sub-paragraph (3)</p> <p>(3) Subject to sub-paragraph (5) <del>and paragraph 9</del>, if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is <a href="#">reasonably</a> necessary for such compliance and any <a href="#">reasonable</a> expenditure incurred by the Agency in so doing <del>will be</del> <a href="#">is</a> recoverable from the undertaker.</p> <p>In sub-paragraph (5)</p> <p>(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency <del>may</del> <a href="#">must</a> not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 13<del>4</del>.</p> <p>In sub-paragraph (6)(b)</p> <p>(b) <a href="#">any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule.</a></p>	
Schedule 9, Part 3, for the Environment Agency, paragraph 7	<p><a href="#">Remediating impaired drainage work</a></p> <p><a href="#">7</a>. <del>Subject to paragraph 9, if</del> 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 that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure <a href="#">reasonably</a> incurred by the Agency in so doing from the undertaker.</p>	

Schedule 9, Part 3, for the Environment Agency, paragraph 8	<a href="#">Agency access</a>	
Schedule 9, Part 3, for the Environment Agency, paragraph 9	<p><a href="#">Free passage of fish</a></p> <p>damage to <del>a</del><sup>the</sup> fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.</p> <p>(3) <del>Subject to paragraph 9, if</del> within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing <del>will be</del><sup>is</sup> recoverable from the undertaker.</p> <p>(4) <del>Subject to paragraph 9, if</del> in any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.</p> <p><b><del>6. The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may incur—</del></b></p> <p><b><del>(c) in the examination or approval of plans under this Part;</del></b></p> <p><b><del>(d) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part; and</del></b></p> <p><b><del>(e) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.</del></b></p>	



~~7.—(1) The undertaker is responsible for and indemnifies the Agency against all costs and losses not otherwise provided for in this Part which may be reasonably incurred or suffered by the Agency by reason of—~~

~~(c) the construction, operation or maintenance of any specified works comprised within the authorised works or the failure of any such works comprised within them; or~~

~~(d) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised works or dealing with any failure of the authorised works.~~

~~(4) For the avoidance of doubt, in sub-paragraph (1)—~~

~~“costs” includes—~~

~~(c) expenses and charges;~~

~~(d) staff costs and overheads;~~

~~(e) legal costs;~~

~~“losses” includes physical damage.~~

~~(5) The undertaker indemnifies the Agency against all liabilities, claims and demands arising out of or in connection with the authorised works or otherwise out of the matters referred to in sub-paragraph (1)(a) and (1)(b).~~

~~(6) For the avoidance of doubt, in sub-paragraph (3)—~~

~~“claims” and “demands” include as applicable—~~

~~(c) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand; and~~

~~(d) any interest element of sums claimed or demanded;~~

~~“liabilities” includes—~~

~~(e) contractual liabilities;~~

~~(f) tortious liabilities (including liabilities for negligence or nuisance);~~

~~(g) liabilities to pay statutory compensation or for breach of statutory duty;~~

	<p><del>(h) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).</del></p> <p><del>(7) The Agency must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker which agreement may not be unreasonably withheld or delayed.</del></p> <p><del>The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, will not relieve the undertaker from any liability under the provisions of this Part.</del></p> <p><u>Monitoring of Sea Defence</u></p> <p><u>10.—(4) Prior to commencing any work using any trenchless installation technique forming part of Work Nos.3 or 4 within plots 01-007, 01-008, 01-010, 01-009 and 02-001, the undertaker must obtain the approval in writing of the Agency of a plan specifying the monitoring of the sea defence which is to be carried out by the undertaker.</u></p> <p><u>(2) The plan required under sub-paragraph (1) must set out how monitoring on the seawall of the sea defence during construction to measure any movement will be carried out including:</u></p> <ul style="list-style-type: none"> <li><u>(a) The outcomes of detailed ground investigation and baseline monitoring of any preexisting seawall movement work undertaken by the undertaker;</u></li> <li><u>(b) the methodology of the trenchless installation technique to be used under the seawall;</u></li> <li><u>(c) the risk assessment for the selected trenchless installation technique works under the seawall;</u></li> <li><u>(d) details and plans of the proposed works under the seawall including sections;</u></li> <li><u>(e) the equipment to be used to carry out monitoring of the seawall;</u></li> <li><u>(f) the location(s) for the installation of monitoring equipment;</u></li> <li><u>(g) the scope and timing of the monitoring to be carried out; and</u></li> <li><u>(h) a process for the reporting of the results of the monitoring to the Agency by the undertaker.</u></li> </ul> <p><u>(3) Any work to which sub-paragraph (1) applies may not be commenced unless and until the monitoring plan has been approved by the Agency.</u></p> <p><u>(4) Any approval of the Agency required under this paragraph—</u></p>	
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	<p><a href="#">(a) must not be unreasonably withheld or delayed;</a></p> <p><a href="#">(b) is deemed to have been approved if it is neither given nor refused within 2 months of the submission of the monitoring plan required by sub-paragraph (1).</a></p> <p><a href="#">(c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation or in the discharge of its environmental duties.</a></p> <p><a href="#">(5) If the Agency refuses any approval required under this paragraph then the refusal must be accompanied by a statement of the grounds for refusal.</a></p>	
Schedule 9, Part 3, for the Environment Agency, paragraph 11, 12 & 13	<p><b><a href="#">As built drawings</a></b></p> <p><del>8.11.</del> <a href="#">As soon as practicable following the completion of the construction of Works Nos.3 or 4 within plots 01-007, 01-008, 01-010, 01-009 and 02-001, the undertaker must provide to the Agency as-built drawings in a form and scale to be agreed in writing between the undertaker and the Agency (acting reasonably) to show location and depths of the cable ducts as installed which must include identification markings on the sea defence.</a></p> <p><b><a href="#">Heavy vehicle movements during construction</a></b></p> <p><a href="#">12.(1) Access for the undertaker over plot 01-005 during the construction of the relevant authorised works must not be used by vehicles that exceed a maximum gross weight of 7.5 tonnes unless otherwise agreed in writing, including details of any additional protection measures, between the undertaker and the Agency (acting reasonably).</a></p> <p><a href="#">(2) The undertaker is not required to comply with sub-paragraph (1) in case of an emergency.</a></p> <p><b><a href="#">Disputes</a></b></p> <p><del>9.13.</del> <a href="#">Any dispute arising between the undertaker and the Agency under this Part of this Schedule will <del>may</del>, if the parties agree, be determined by arbitration under article 48 (arbitration), but <del>failing agreement</del> will <del>otherwise</del> be determined by the Secretary of State for <del>the</del> Environment,</a></p>	

	Food and Rural Affairs or its successor and the Secretary of State for Energy Security and Net Zero or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.	
Schedule 9, Part 10, for the protection of Essex County Council as local highway authority	<p><u>PART 1</u></p> <p><u>For the protection of Essex County Council as local highway authority</u></p> <p><u>Application</u></p> <p><u>1. The provisions of this Part of this Schedule have effect in relation to the works (as defined under paragraph 2) unless otherwise agreed in writing between the undertaker and Essex County Council in its capacity as the local highway authority.</u></p> <p><u>Definitions</u></p> <p><u>2. In this Part of this Schedule—</u></p> <p><u>“as built drawings” means—</u></p> <p><u>(a) drawings showing the as constructed local highways in an appropriate format (including CD Rom or alternative/equivalent digital storage media);</u></p> <p><u>(b) drawings showing the location for utilities installed in the local highway; and</u></p> <p><u>(c) specifications for materials used for the constructed local highway;</u></p> <p><u>“construction period” means for each work, from commencement of the relevant work forming part of authorised development under this Order until the issue of the final certificate for that work.</u></p> <p><u>“detailed design” means drawings and other information comprising the detailed design for the alteration and improvement of local highways comprised in the authorised development;</u></p> <p><u>“detailed information” means drawings, specifications and other information relating to the local highway, as relevant to the works in question (insofar as both parties agree (acting reasonably) are relevant and not already provided for in any document that the undertaker is required to produce under Schedule 2 to the Order) which must be in accordance with the detailed design and include—</u></p> <p><u>(a) information and assessment required to demonstrate compliance of any trenchless crossing works with DMRB Volume 4 section 1 CD 622 (Managing geotechnical risk);</u></p> <p><u>(b) long and cross sectional drawings;</u></p>	New part added

	<p><u>(c) traffic signs and road markings;</u></p> <p><u>(d) landscaping, planting and any boundary features which will form part of the local highway;</u></p> <p><u>(e) a schedule of timings for the works, including dates and durations for any temporary closures of any part of the local highway;</u></p> <p><u>(f) traffic management proposals including any diversionary routes; and</u></p> <p><u>(g) a schedule of the existing local highway condition prior to commencement of construction related activities;</u></p> <p><u>“DMRB” means the Design Manual for Roads and Bridges published by National Highways. Or any replacement or modification of that standard for the time being in force;</u></p> <p><u>“final certificate” means the final certificate issued by the local highway authority under paragraph [11] of this Part;</u></p> <p><u>“local highway” means any public highway including any public right of way which is maintainable, or is intended at the completion of the works in relation thereto to be maintainable, by a local highway authority;</u></p> <p><u>“local highway authority” means Essex County Council;</u></p> <p><u>“maintenance period” means 12 months from the date of the provisional certificate being served under paragraph [9] of this Part unless otherwise agreed in writing between the parties;</u></p> <p><u>“provisional certificate” means the certificate served under paragraph [9] of this Part;</u></p> <p><u>“senior representatives” means the nominated senior representative on behalf of the undertaker and persons notified to the undertaker by the relevant local highway authority as being their senior representatives; and</u></p> <p><u>“works” means any works authorised by the Order undertaken on, to or under any part of the local highway.</u></p> <p><b><u>Design input and commencement</u></b></p> <p><b><u>3.—(1) The undertaker must allow and facilitate an appropriately qualified person or persons duly appointed by the local highway authority (each being a “nominated officer”) to participate in the design process for the detailed design for the works and will have regard to any reasonable</u></b></p>	
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representations of the nominated officer in finalising its detailed design proposal (and, without limitation, the undertaker is able to refuse implementation of any representation which would cause a breach of this Order, [conflict with a permit issued under a permit scheme operated by the local highway authority] or would entail materially new or materially different environmental effects from those reported in the environmental statement).

(2) Participation under sub-paragraph (1) will be in the form of invitations (given at least 20 business days in advance and sent by email to [ ] headed [ ] and marked 'urgent') to attend design meetings relating to relevant works and the provision to the nominated officer of such drawings, cross/long sections, design proposals and other information as is reasonably required to allow the nominated officer to provide an informed response on the detailed design proposals to the undertaker.

(3) The nominated officer will have no less than 10 business days from the date on which the undertaker supplies information pursuant to sub-paragraph (2) to provide the undertaker with any comments upon any information provided to that officer pursuant to sub-paragraph (2).

(4) No part of the works may commence until the undertaker has provided to the local highway authority the detailed information relating to that part of the works (without prejudice to the undertaker providing parts of the detailed information insofar as it relates to the operation of the local highway at a later date, provided the provision of that information is subject to this sub-paragraph and sub-paragraphs (5) to (7)).

(5) The undertaker will give the local highway authority at least 10 business days to comment and provide representations by email on the detailed information provided to it under sub-paragraph (4).

(6) The undertaker will have regard to any comments, representations and recommendations made by the local highway authority (acting reasonably) under sub-paragraph (5) (and, without limitation, the undertaker is able to refuse implementation of any representation or recommendation which would cause a breach of this Order, conflict with a permit issued under a permit scheme operated by the local highway authority or would entail materially new or materially different environmental effects from those reported in the environmental statement) and will provide the local highway authority with reasons for non-acceptance of any representation or recommendation as soon as reasonably practicable upon receipt of a request from the local highway authority in writing within 10 business days of its decision.

(7) The works must not be carried out except in accordance with the detailed information (but subject to the process in sub-paragraphs (4) and (5) or as otherwise may be agreed prior to the

date of commencement of the relevant works between the undertaker and the local highway authority.

(8) This paragraph does not apply to the works to the extent that would cause an inconsistency with any provision of this Order.

4.—(1) Before commencing the construction of, or the carrying out of any work authorised by this Order which involves works to a local highway the undertaker must use reasonable endeavours to agree with the local highway authority (acting reasonably) a local operating agreement covering the following as relevant to the works in question—

(a) communications and customer care arrangements for communication with stakeholders and the local community including—

(i) the identity of the party responsible for each activity;

(ii) the identity of the representative of the undertaker or the undertaker's contractor responsible for stakeholder engagement and communication;

(iii) defined timescales for contractor responses to responses to communications;

(iv) the form of documentation required under paragraph 3 immediately above;

(v) the relevant email details from time to time under paragraph 3 immediately above;

(vi) road safety audit invitation process under paragraph 7 below; and

(vii) the senior representation process under paragraph 14 below.

(b) definition of the extents for the works areas between the highway boundary, the traffic management lead in tapers, the longitudinal coning and the end of the lead out tapers, zone of influence (being the area which is reasonably affected by those work areas), traffic management and diversion requirements and free recovery areas (as appropriate);

(c) arrangements for the submission to the local highway authority of digital copies (including CD Rom or alternative/equivalent storage media) of all as-built drawings for the relevant work area including identification of any new limits of highway maintainable by the local highway authority in accordance with paragraph 11 of this Schedule;

(d) where applicable, winter maintenance including anticipated winter treatments and severe weather arrangements to apply during the construction period and the maintenance period;

- (e) repair arrangements in relation to local highways directly affected by the construction of the authorised development;
  - (f) where applicable, continuity of technology arrangements to apply during the construction period and the maintenance period;
  - (g) arrangements for dealing with and recording incidents during the construction period and the maintenance period including appropriate provision of recovery vehicles; and
  - (h) traffic management: during relevant works.
- (5) Any agreement completed under sub-paragraph (1) must be complied with by the undertaker and continue in force until such time as a final certificate has been issued in respect of the relevant works.

#### **Survey reinstatement**

5. The undertaker must reinstate to the reasonable satisfaction of the local highway authority any part of the local highway which has been temporarily used for survey or investigation by the undertaker pursuant to article [19] (protective work to buildings), article [30] (temporary use of land for carrying out the authorised development) of this Order or any other power in this Order to the condition it was in on the date on which the survey or investigation began or such other condition as may be agreed in writing by the local highway authority.

#### **Inspections and testing of materials**

6.—(1) The undertaker must allow and facilitate any person acting on behalf of the local highway authority to access and inspect at all reasonable times any part of the works during their construction and before a final certificate has been issued in respect of the relevant works as is reasonably necessary to ensure that the works have been or are being carried out in accordance with the detailed design and to the appropriate standard.

(2) The undertaker must allow any person duly appointed by the local highway authority to enter upon and inspect any part of the works which are in, over, under, or adjacent to any local highway or may affect any highway or any property of the local highway authority, during the carrying out of the works, and the undertaker must give to such officer reasonable facilities for such inspection.

(3) Any testing reasonably requested by the local highway authority of materials used in any works must be carried out at the undertaker's expense and in accordance with the latest version



of the Manual of Contract Documents for Highway Works (or any other testing specification agreed by the undertaker and the local highway authority acting reasonably).

(4) The local highway authority (and its contractor or its agent) may test (at the cost of the undertaker) all or any materials used or proposed to be used in any works and the undertaker must provide such information access and materials as is reasonably necessary to facilitate such testing.

(5) The undertaker must, as soon as is reasonably practicable and in any event within 10 business days, provide the local highway authority with a copy of all available test certificates and results relevant to the works that the local highway authority has requested under paragraph (3).

(6) The local highway authority must as soon as is reasonably practicable and in any event within 10 business days, provide the undertaker with a copy of all available test results and certificates relevant to the works carried out under paragraph (4) that the undertaker has requested in writing.

(7) In circumstances where a work carried out by the undertaker is tested by the local highway authority pursuant to the provisions of this Part of the Schedule and that test resulted in works being undone at the undertaker's expense (acting reasonably) and found to be satisfactory then that expense must forthwith be reimbursed by the local highway authority provided that the local highway authority was given a reasonable opportunity by the undertaker to inspect the works at a time when the works could have been inspected without the need to incur the expense.

#### **Road Safety Audits**

7.—(1) The undertaker must procure that an appropriately qualified RSA team (as defined in DMRB Volume 5 Section 2 Part 2 (GG 119) or any replacement or modification of that standard) undertakes road safety audit in accordance with DMRB standard GG 119 for works which involve creation, alteration, expansion or other modifications of the local highway but not for works which consist only of trenchless installation beneath highways, and must provide copies of the reports of such audits to the local highway authority within 10 business days of their receipt by the undertaker.

(2) The local highway authority must be invited to participate in the road safety audit conducted under sub-paragraph (1).

(3) No works on a local highway must be commenced until a satisfactory Stage 1 and Stage 2 Road Safety Audit has been carried out and all reasonable recommendations raised by them or any exceptions are approved by the local highways authority (acting reasonably);

(4) Where the report of the stage 3 and 4 road safety audit identifies any recommended measures in respect of the local highway, the undertaker must carry out, at its own expense and to the reasonable satisfaction of the local highway authority, those measures identified as part of stage 3 and 4 audit which the undertaker considers necessary (acting reasonably) and which do not give rise to any new or materially different environmental effects in comparison with those identified in the environmental statement.

**Defects in local highways constructed by the undertaker**

8.—(1) Until such time as a final certificate has been issued in respect of any works, the undertaker must make good any defects in the works constructed by the undertaker to the reasonable satisfaction of the local highway authority.

(2) The undertaker must submit to the local highway authority such details and information relating to making good any defects under sub-paragraph (1) as the local highway authority and the undertaker agree is reasonable in the circumstances.

**Provisional Certificate**

9.—(1) Subject to sub-paragraph (2), when the undertaker considers that the works have reached completion so that they are available and safe for use by the public it must serve a provisional certificate on the local highway authority and must allow the local highway authority the opportunity to inspect the works to identify any defects or incomplete works (and the undertaker must give proper consideration to any representations and recommendations made by the local highway authority and make good such defects pursuant to paragraph 8 or complete incomplete works).

(2) The undertaker must not serve a provisional certificate on the local highway authority under sub-paragraph (1) until either—

- (a) a stage 3 road safety audit has been carried out in respect of the works in question in accordance with GG19 of DMRB and in the opinion of the undertaker any recommended measures identified in the audit and which the undertaker considers to be necessary, have been completed; or
- (b) the local highway authority has been provided an opportunity to inspect the works and the undertaker has, in its opinion, completed any further works or measures required to address any safety deficiencies or defects identified as a result of the inspection.

(3) The local highway authority must issue to the undertaker, on request from the undertaker a counter-signed provisional certificate in relation to any part of the works, after completion of that part of the works once a stage 3 safety audit has been carried out in accordance with sub-paragraph (2).

(4) The undertaker will agree with the local highway authority (such agreement not to be unreasonably withheld or delayed) the date of opening of the works to the public and take appropriate steps to officially record the same.

#### **Maintenance**

10.—(1) Subject to sub-paragraph (2), the undertaker must maintain the works throughout the maintenance period to a standard appropriate to their use by the public in accordance with the DMRB.

(2) Nothing in sub-paragraph (1) makes the undertaker responsible for the maintenance of any street works or maintenance works undertaken by any person other than the undertaker or which does not form part of the authorised development during the maintenance period.

#### **Final Certificate**

11. The local highway authority must as soon as reasonably practicable and in any event within 25 business days of the last of sub- paragraph (a) to (g) of this sub-paragraph being satisfied issue a final certificate in respect of the works where—

- (a) the maintenance period has passed;
- (b) all incomplete works and identified defects requiring remediation under sub-paragraph 8(1) have been remedied to the local highway authority's reasonable satisfaction;
- (c) the undertaker has given the local highway authority a reasonable opportunity to inspect the relevant works in readiness for the issue of a final certificate and has given due consideration and acted accordingly in respect of any representations and recommendations made by the local highway authority in respect of the works;
- (d) the undertaker has provided the local highway authority with a health and safety file in respect of the relevant works conforming in all respects to the Construction (Design and Management) Regulations 2015 to the local highway authority's reasonable satisfaction;
- (e) the undertaker has provided the local highway authority with traffic signal information (in so far as is relevant);

- (f) the undertaker has provided the local highway authority with street lighting information (in so far as is relevant);
- (g) in relation to any permanent works only (which for the avoidance of doubt will exclude any maintenance of the street works or maintenance works)—
  - (i) the undertaker has provided the local highway authority with records of earthworks including source and description of fill material description of sub grades in cut areas and test results;
  - (ii) the undertaker has provided the local highway authority with the structural maintenance manual to include soil reports records of materials tested and revised forms TA1 and design certificates;
  - (iii) the undertaker has provided the local highway authority with the appropriate maintenance manual or manuals ;
  - (iv) the undertaker has provided the local highway authority with as built drawings and such detailed information as the local highway authority has requested (acting reasonably) in relation to the relevant works as built;
  - (v) where there are structures required as part of the works the undertaker has provided the local highway authority with the appropriate construction compliance certificate or certificates;
  - (vi) the undertaker has provided the local highway authority with a complete set of hard copies and a digital copy containing a complete set of as-built drawings for the whole of the Works showing (inter alia) undertakers' plant and equipment such drawings to be to such scale or scales as the local highway authority may reasonably require for the purpose of subsequent maintenance and further works
  - (vii) the undertaker has provided the local highway authority with a plan showing edged red the land added to the local highway as public highway and
  - (viii) any drains which the local highways authority consider should be constructed to dispose of soil and surface water drainage in connection with the relevant works and in order to make them appropriate for public use have been constructed.

(2) The issue of a final certificate by the local highway authority amounts to an acknowledgment by the relevant local highway authority that the construction, alteration or diversion of a highway has been completed to its reasonable satisfaction for the purposes of article 12 (construction and maintenance of new or altered highway) of this Order.

	<p><b><u>Emergency Work</u></b></p> <p><u>12. Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public.</u></p> <p><b><u>Land interests</u></b></p> <p><u>13. Following the issuing of the final certificate under paragraph 11 in respect of any part of the local highway, the undertaker must, if requested by the local highway authority, in respect of a local highway which is to be maintainable by the local highway authority following, and as a result of, the completion of those works execute and complete a transfer to the local highway authority at nil consideration and at the cost of the undertaker of any land and rights which have been compulsorily acquired or voluntarily acquired (following a written request by the local highway authority) under this Order and which are necessary for the maintenance and operation of a local highway.</u></p> <p><b><u>Disputes</u></b></p> <p><u>14.—(1) In the event of any disagreement between the undertaker and the local highway authority arising out of or in connection with this Part of this Schedule which requires the agreement of the undertaker and the local highway authority jointly or the approval of the local highway authority and which cannot be resolved within 10 business days of the disagreement arising under clauses 3, 4, 5, 6 and 8, either party may request a review of the issue in disagreement by the parties giving notice in writing to their senior representatives.</u></p> <p><u>(2) The senior representatives will consider any such request and use all reasonable endeavours in good faith to reach agreement to resolve any disagreement.</u></p> <p><u>(3) Where agreement is not reached by the senior representatives within 20 business days of a request being made under sub-paragraph (1), the disagreement may be determined by arbitration in accordance with article [48] (arbitration) of this Order.</u></p>	
Schedule 10, Part 2, conditions, paragraph 19	<p><b>19.—(4)</b> In the event that piled foundations are proposed, the monitoring plan submitted under condition 18(2)(b) must include measurements of noise generated by the installation of <del>the first</del> four <u>of the first 12</u> piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.</p>	Amended in response to IP submission that this was unclear

	<p>(2) The results of the initial noise measurements monitored in accordance with subparagraph 18(2)(b) must be provided in writing to the MMO within nine weeks of the installation (unless otherwise agreed) of <u>the first of the four</u> <del>of the first 12 piled foundations of each piled foundation type</del> <u>piled foundations monitored in accordance with sub-paragraph (1)</u>. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the reasonable opinion of the MMO in consultation with the statutory nature conservation body, the assessment shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.</p>	
Schedule 11, Part 2 Conditions, paragraph 4 sub-paragraph (3)	<p>(3) In undertaking activities under condition 4(2)(f), <u>other than in areas shown shaded yellow on the Deep water Route Cabel Installation Area (Future Dredging depths) plan where navigable depth may not be reduced to any extent.</u> the undertaker must not reduce water depth by more than 5% referenced to Chart Datum unless agreed with the MMO in writing following consultation with the MCA.</p>	Amended to provide clarity and certainty that the depth of the deep water routes cannot be reduced
Schedule 11, Part 2 Conditions, paragraph 20 sub-paragraph (2)	<p><b>20.—</b>(1) In the event that piled foundations are proposed, the monitoring plan submitted under condition 19(1) must include measurements of noise generated by the installation of the <del>first four</del> <u>of the first 12</u> piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.</p> <p>(2) The results of the initial noise measurements monitored in accordance with subparagraph 19(1) must be provided in writing to the MMO within nine weeks of the installation (unless otherwise agreed) of <del>four of the first 12 piled foundations</del> <u>piled foundation monitored in accordance with sub-paragraph (1)</u> <del>of each piled foundation type</del>. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the reasonable opinion of the MMO in consultation with the statutory nature conservation body, the assessment shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.</p>	Amended in response to IP submission that this was unclear
Schedule 13, compensation	Articles <u>3 and 49</u> <del>3</del>	To add article 49

Schedule 15, Documents to be certified	9.22	Outline Landscape and Ecological Management Plan <a href="#">Archaeological mitigation strategy</a> <a href="#">Outline groundwater monitoring plan</a> <a href="#">Deep Water Route Cable Installation Area (Future Dredging depths) plan</a>	Revision A	March 2024	
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**Table of Amendments to the Draft Development Consent Order – Revision F, Deadline 5**

Reference	Amendment	Reason
<b>Articles</b>		
Article 35 – Funding	(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any Order land unless it has first put in place <a href="#">in relation to that land</a> either—	To clarify that the guarantee is needed over the affected land
<b>Schedules</b>		
Schedule 1 – Authorised development	After Work No 17 new division inserted: <a href="#">In the District of East Suffolk, Suffolk:</a>	To reflect that Work No. 18 is located in East Suffolk
Schedule 4 Part 4 - Speed Limits	In line 2 of the table District of Tendring      Golden Lane for a distance of <del>10.9</del> 40 miles per hour kilometres shown with a dashed line on sheet 2 of the Temporary Speed Reduction Plans	To reflect an extension of the speed limit following discussion with the highway authority
	In line 3 of the table:	To reflect an extension of the speed limit following



	District of Tendring	B1035 Thorpe Road/Tendring Road/Swan Road/ <a href="#">Whitehall Road</a> for a distance of <del>0.7</del> <a href="#">1.4</a> kilometres shown with a dashed line on sheet <del>3</del> <a href="#">4</a> of the Temporary Speed Reduction Plans	<del>40</del> <a href="#">30</a> miles per hour	discussion with the highway authority and change the limit to 40mph as requested by the highway authority.  Sheet number corrected.
	In line 5 of the table: District of Tendring	Bentley Road, for a distance of 1.6 kilometres shown with a dashed line on sheets <a href="#">5</a> and <a href="#">6</a> of the Temporary Speed Reduction Plans	40 miles per hour	Sheet number corrected.
Schedule 10, part 2 Conditions, paragraph 3	<p>To add the MCA as a consultee</p> <p>In undertaking activities under condition 3(2)(f), the undertaker must not reduce water depth by more than 5% unless agreed with the MMO in writing <a href="#">following consultation with the MCA</a>.</p> <p>An operation and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan must be submitted to the MMO for approval in consultation with the relevant SNCB <a href="#">and the MCA</a> at least six months prior to the commencement of the operation of the licensed activities.</p> <p>All operation and maintenance activities must be carried out in accordance with the approved plan.</p>			In response to submissions from the MCA and MMO.
Schedule 11, part 2 Conditions, paragraph	To add reference to chart datum			In response to

3	(3) In undertaking activities under condition 4(2)(f), the undertaker must not reduce water depth by more than 5% <a href="#">referenced to Chart Datum</a> unless...	submissions.
	<p>To add the MCA as a consultee</p> <p>(3) In undertaking activities under condition 3(2)(f), the undertaker must not reduce water depth by more than 5% <a href="#">referenced to Chart Datum</a> unless agreed with the MMO in writing <a href="#">following consultation with the MCA</a>.</p> <p>(4) An operation and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan must be submitted to the MMO for approval in consultation with the relevant SNCB <a href="#">and the MCA</a> at least six months prior to the commencement of the operation of the licensed activities. All operation and maintenance activities must be carried out in accordance with the approved plan.</p>	In response to submissions from the MCA and MMO.

**Table of Amendments to the Draft Development Consent Order – Revision E, Deadline 4**

Reference	Amendment	Reason
<b>Articles</b>		
Article 2, Interpretation	New item: <u>“outline sediment disposal management plan” means the document certified as such by the Secretary of State under article 44 (certification of plans, etc) for the purposes of this Order;</u>	Added as this plan is now referred to in the DMLs and the certified document list
	Amend to paragraph 2(3)(a): (c) requirements 2 (offshore design parameters) and <del>56</del> (onshore <u>substation works, design and landscaping</u> <del>detailed design parameters onshore</del> ) in Part Schedule 2 (requirements);	To align with changes to the requirements
Article 9, Defence to proceedings in respect of statutory nuisance	(d) relates to premises used by the undertaker for the purposes of or in connection with the construction, maintenance or decommissioning of the authorised development <u>and</u> <del>that the nuisance and</del> is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(a); or	In response to IP comments
<b>Schedules</b>		

Schedule 2, Requirements, Part 1, requirement 7	No stage of the onshore works may commence until for that stage the following plans have been submitted to and approved by the <del>relevant planning</del> <a href="#">local highway</a> authority;	In response to a request from Essex County Council
Schedule 9, new Part 9	<p style="text-align: center;"><a href="#">PART 2</a></p> <p style="text-align: center;"><a href="#">For the protection of Port of London Authority (onshore)</a></p> <p><b><a href="#">Application</a></b></p> <p><a href="#">1. The provisions of this Part of this Schedule apply for the protection of the PLA and have effect unless otherwise agreed in writing between the undertaker and PLA.</a></p> <p><b><a href="#">Interpretation</a></b></p> <p><a href="#">2. (1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with subparagraph (2) the latter prevail.</a></p> <p><a href="#">(2) In this Part of the Schedule –</a></p> <p><a href="#">(a) "apparatus" means all towers, apparatus and equipment situated on the PLA Property ;</a></p> <p><a href="#">(b) "immediate" means as soon as reasonably practicable to allow access by completing any vehicle movements in progress, removing staff and barriers from the carriageway except as required to maintain health and safety and taking any other action necessary to allow passage within a target response time of no more than [5 minutes];</a></p> <p><a href="#">(c) "physical measures" means any measure carried out by the undertaker which will restrict any part of the access to the PLA Property particularly anything that involves closure or narrowing of the access. For the</a></p>	Part 9 has been added following agreement of the drafting with the PLA

avoidance of doubt it will not include measures carried out for safe movement of vehicles such as banksmen used to manage the flow of traffic;

(d) "PLA" means the Port of London Authority;

(e) "PLA Property" means the radar site at Manor Way, Holland Haven in the vicinity of Plots 01-001, 01-002, 01-003; and

(f) "utilities and services" means all existing functional services above and below ground including drainage, surface water drainage, power and communications cables and pipelines, manholes and supports serving the apparatus.

### **Access**

3. (1) Access for the PLA or any person acting under its instruction, including access for vehicles and plant, to the PLA Property over plots 01-001 and 01-002 and to any apparatus utilities and services will not be extinguished or prevented and must not be unreasonably restricted or delayed by the undertaker during the construction, operation, maintenance or decommissioning of the authorised development.

(2) Unreasonable delay or restriction in subparagraph (1) will not prevent the temporary restriction of access for other users (including access by the public) or the control or marshalling of access to facilitate the safe movement of large vehicles or plant or the carrying out of works to the access route by the undertaker, subject to the provisions of sub-paragraph (3) and (4) of this paragraph 3.

(3) Where any part of the access to the PLA Property is restricted or controlled by the undertaker, any physical measures shall be agreed by the PLA (acting reasonably) prior to the implementation. The undertaker must provide access

to the PLA Property on request by the PLA (which may be verbal) or any person acting under its instruction and take immediate steps to allow access to and from the PLA Property through or around that restriction or physical measure.

(4) The undertaker may not temporarily close, alter or divert the access route to the PLA Property over plots 01-001 and 01-002 under article 14 (temporary restriction of use of streets) or article 17 (powers to alter layout etc of streets) of this Order or any other power in this Order in so far as any such works create or result in physical measures impeding access unless the closure, alteration or diversion and the means of maintaining access for the PLA during such closure, alteration or diversion has been agreed between the undertaker and the PLA (such agreement must not be unreasonably withheld or delayed).

#### **Extinguishment of rights**

4. Regardless of any provision in this Order, the undertaker may not extinguish any interest or right vested in or benefitting the PLA unless the consent of the PLA in writing has been given to such extinguishment.

#### **Installation of structures**

5. (1) Without prejudice to paragraph 6 and the generality of any other protection afforded to the PLA the undertaker may not erect, install, move, store or use within plots 01-002 and 01-003 any structure or plant, including any assembled crane, which would have a maximum height at any point in excess of 25m from ground level unless and until the consent of the PLA in writing has been given to the erection or installation of that structure.

(2) As part of an application for consent under this paragraph 5 the undertaker must submit to the PLA a plan, section and description of the structure or plant

and the works to be executed in connection with the erection, installation, movement, storage or use of the structure and plant.

(3) Any structure or plant to which this paragraph 5 applies may only be erected, installed, moved, stored or used in the location(s), to the maximum height and in accordance with the plan, section and description submitted under sub-paragraph (2) and approved by the PLA (such approval not to be unreasonably withheld or delayed) and in accordance with such reasonable requirements as may be requested in accordance with sub-paragraph (4) by the PLA for the protection of the apparatus, or for securing access to it, and the PLA is entitled to watch and inspect the structure or plant and the execution of those works associated with the erection, installation, movement, storage or use of the structure and plant (acting reasonably).

(4) Any requirements requested by the PLA under sub-paragraph (3) must be made within a period of 28 days beginning with the date on which a plan under sub-paragraph (2) is submitted to it.

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days or as agreed between the undertaker and the PLA in writing, before commencing the erection, installation, movement, storage or use of any structure or plant to which this paragraph 5 relates, a new plan instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

### **Services**

6. Without prejudice to the generality of any other protection afforded to the PLA elsewhere in the Order, the undertaker must not decommission or remove any utilities and services and any right of the owner of the utilities and services to access and maintain the utilities and services must not be extinguished until

	<u>alternative utilities and services have been constructed and are in operation serving the apparatus to the PLA's reasonable satisfaction</u>	
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Schedule 10, Part 1, paragraph 1	<p>New item:</p> <p><u>“outline sediment disposal management plan” means the document certified as such by the Secretary of State under article 44 (certification of plans, etc) for the purposes of this Order;</u></p>	Added as this plan is now referred to in the DML
Schedule 10, Part 2, condition 12	<p>(j) <u>a sediment disposal management plan for the relevant stage which accords with the principles set out in the outline sediment disposal management plan.</u> <del>a southern north sea special area of conservation site integrity plan which accords with the principles set out in the outline southern north sea special area of conservation site integrity plan.</del></p>	To secure the submission and approval of a final sediment disposal management plan in accordance with the certified outline. The deleted plan is replaced by new condition 14.

Schedule 10, Part 2, new condition 14	<p><b><u>Site Integrity Plan</u></b></p> <p><u>14. (1) No piling activities can take place until a southern north sea special area of conservation site integrity plan ("SIP"), which accords with the principles set out in the outline southern north sea special area of conservation site integrity plan which accords with the principles set out in the, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.</u></p> <p><u>(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation ("SNS SAC") as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.</u></p> <p><u>(3) The SIP must be submitted in writing to the MMO no later than six months prior to the commencement of piling activities.</u></p> <p><u>(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the preconstruction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.</u></p> <p><u>(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance.</u></p>	<p>Requested by the MMO.</p> <p>Addition results in consequential cross reference updates throughout this Part</p>
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<p>Schedule 10, Part 2, new condition 19</p>	<p><u>Marine mammal condition</u></p> <p><u>19. (1) In the event that piled foundations are proposed, the monitoring plan submitted under condition 18(2)(b) must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.</u></p> <p><u>(2) The results of the initial noise measurements monitored in accordance with subparagraph 18(2)(b) must be provided in writing to the MMO within nine weeks of the installation (unless otherwise agreed) of four of the first 12 piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the reasonable opinion of the MMO in consultation with the statutory nature conservation body, the assessment shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.</u></p>	<p>To secure reporting of the noise generated from the initial piling. Requested by the MMO.</p> <p>Addition results in consequential cross reference updates throughout this Part</p>
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Schedule 11, Part 1, paragraph 1	<p>New items:</p> <p><u>“outline sediment disposal management plan” means the document certified as such by the Secretary of State under article 44 (certification of plans, etc) for the purposes of this Order;</u></p> <p><u>“outline southern north sea special area of conservation site integrity plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 44 (certification of plans etc.);</u></p>	Added as now referred to in this DML.
Schedule 11, Part 2, condition 13 (1)	<p><u>New item (l)</u></p> <p><u>(k)</u> a fisheries liaison and co-existence plan for the relevant stage which accords with the principles set out in the outline fisheries liaison and co-existence plan; <u>and</u></p> <p><u>(l) a sediment disposal management plan for the relevant stage which accords with the principles set out in the outline sediment disposal management plan.</u></p>	To secure the submission and approval of a final sediment disposal management plan in accordance with the certified outline

Schedule 11, Part 2,  
new condition 15

**Site Integrity Plan**

15 (1) No piling activities can take place until a southern north sea special area of conservation site integrity plan ("SIP"), which accords with the principles set out in the outline southern north sea special area of conservation site integrity plan which accords with the principles set out in the, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation ("SNS SAC") as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted in writing to the MMO no later than six months prior to the commencement of piling activities.

(4) In approving the SIP the MMO must be satisfied that the authorised scheme at the preconstruction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance

Requested by the MMO.

Addition results in consequential cross reference updates throughout this Part

Schedule 11, Part 2, new condition 20	<p><b><u>Marine mammal condition</u></b></p> <p><u>15. (1) In the event that piled foundations are proposed, the monitoring plan submitted under condition 19(1) must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing. The results of the initial noise measurements monitored in accordance with subparagraph 19(1) must be provided in writing to the MMO within nine weeks of the installation (unless otherwise agreed) of four of the first 12 piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the reasonable opinion of the MMO in consultation with the statutory nature conservation body, the assessment shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.</u></p>				<p>To secure reporting of the noise generated from the initial piling. Requested by the MMO.</p> <p>Addition results in consequential cross reference updates throughout this Part</p>
Schedule 15, Table 1	<u>10.30</u>	<u>Outline Sediment Disposal Management Plan</u>	<u>Revision A</u>	<u>December 2024</u>	<p>Added as this plan is now referred to in the DMLS and the certified document list</p>

**Table of Amendments to the Draft Development Consent Order – Revision D, Deadline 3**

Reference	Amendment	Reason
<b>Articles</b>		
Article 8, Application and modification of legislative provisions	Paragraph (1) (f): (f) Sections 6 (grass verges etc) and 30 (unauthorised structures on seashore) of the Essex <del>County Council</del> Act 1987(e)	To correct the name as requested by Essex County Council

Article 14, Temporary restriction of use of streets	Paragraph (6) (6) If a street authority fails to notify the undertaker of its decision within 56 <del>28</del> days of receiving an application for consent under paragraph (4), that street authority is deemed to have granted consent.	To extend the period as requested by Essex County Council
Article 16, Traffic regulation	(3) The undertaker must notify the chief officer of police and the traffic authority in whose area the road is situated of the intended date of commencement of development under this Order and the intended date of commencement of any maintenance works where the <del>exception</del> -provision set out in paragraph (1) will apply not less than 14 days before such work are commenced.  (4) On and after the date notified by the undertaker in accordance with <a href="#">this</a> paragraph <del>(4)</del> no person is to drive any motor vehicle at a speed exceeding the limit specified in column (3) of Part 4 (speed limits) of Schedule 4 (traffic regulation) along the lengths of road identified in the corresponding row of column (2) of that Part for the period stated in the notice, which period may not <del>not</del> exceed 18 months from the date notified.	Minor amends for clarity
	(16) Save for any application made to National Highways, if the traffic authority fails to notify the undertaker of its decision within 56 <del>28</del> days of receiving an application for consent under this article, the traffic authority is deemed to have granted consent.	To extend the period as requested by Essex County Council
Article 17, Power to alter layout etc. of streets	(5) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority. <del>Paragraphs (2) and (3) do not apply where the undertaker is the street authority for a street in which the works are being carried out.</del>	Deleted at the request of the ExA
Schedules		
	New paragraph (6)	Added in response to a query from Essex County



	<u>(6) If a street authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraph (5), that street authority is deemed to have granted consent.</u>			Council
Schedule 2, part 1, table 1	Maximum total seabed footprint for wind turbine generators (excluding scour protection) (metres squared)	992,274		To correct typographical errors
	Maximum total seabed footprint for offshore substation platforms (excluding scour protection) (metres squared)	33,700		
	Maximum total scour <u>protection</u> volume for offshore substation platforms foundations (metres cubed)	125,450		
Schedule 2, part 1, requirement 5	Title amended to: Onshore substation works, <u>design and landscaping</u>			Amended at the request of the ExA
	Item 5(1)(f) (f) security fencing, <u>colour and materials</u> ;			As requested by Essex County Council
	(2) The details submitted under sub-paragraph (1) of this requirement must be in accordance with <del>requirement 6 (detailed design parameters onshore)</del> <u>sub-paragraph (3)</u> and substantially in accordance with the onshore substation design principles document.  <del>(3) Work No. 15B must be carried out in accordance with the approved details.</del> ... <u>(4) Work No. 15B must be carried out in accordance with the details approved under sub-paragraph (2).</u>			To better reflect the merging of the requirements
	New sub-paragraph (8):			As requested by Essex County Council

	<u>The landscaping of Work No.15 must be maintained throughout the operation of Work No.15B.</u>	
Requirement 12, Protected species onshore	<u>Deletion of sub-paragraph (6):</u>  <del>(5) In this paragraph, “nationally protected species” means any species protected under the Wildlife and Countryside Act 1981.</del>  <del>(6)</del> <u>(5)</u>	This is already provided for in the foregoing sub-paragraphs
Requirement 13, Ground water monitoring	(1) The undertaker must prepare and submit to the relevant planning authority for approval a scheme of investigation of hydraulic connectivity of groundwater supplying private water supplies. <del>The undertaker shall implement the approved scheme.</del>	Duplication with sub-paragraph (2)
Requirement 14, Restoration of land used temporarily for construction	<u>Subject to requirement 19(4), A</u> ny land which is used temporarily for construction of the onshore works and not ultimately incorporated in permanent works or approved landscaping, must be reinstated within twelve months of completion of the relevant stage of the onshore works <u>or such other time period as may be agreed in writing with the relevant planning authority.</u>	To increase clarity and to reflect part of working suggested by Essex County Council

Requirement 16, Skills and employment strategy	16 (1) <del>No stage of t</del> The onshore works <del>or</del> <u>and</u> offshore works may not commence until <del>a</del> n skills and employment strategy, substantially in accordance with the outline skills and employment strategy has been submitted to and approved by the relevant planning authority.	To increase clarity that this is a single plan.
Requirement 17, Onshore build options	The onshore works must not commence, <del>nor powers of compulsory acquisition under Part 5 of this Order be exercised</del> until notification has been submitted to the relevant planning authority as to whether the undertaker intends to commence <del>onshore</del> -build option 1 or <del>onshore</del> -build option 2	In response to submissions by the Applicant.
Requirement 20, Biodiversity net gain	<del>No stage of the onshore works may</del> Work No. 15 may not commence until a net gain strategy <del>in relation to that stage</del> has been submitted to and approved by the relevant planning authority.	To try and resolve any confusion as to the approach to BNG by prevent building of the permanent elements at the OnSS rather than stages.
Requirement 22, Onshore decommissioning	22.—(1) A written scheme of decommissioning for the onshore works must be submitted to and approved by the relevant planning authority <del>at least</del> not less than six months prior to any decommissioning works commencing.	To increase clarity
Schedule 2, part 2, sub-paragraph 5(2)	All of sub-paragraph (2) has been deleted.	As requested by Essex County Council
Schedule 2, part 2, sub-paragraph 6(11)	(11) If an approval is given by the appointed person pursuant to this paragraph, it is to be deemed to be an approval for the purpose of Part 1 of Schedule 2 (requirements) as if it had been given by the relevant planning authority. <del>The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.</del>	Deleted at the request of the ExA

Schedule 3, Streets subject to street works	Access track between Manor <a href="#">Farm</a> and Short Lane	Between points labelled AI and AJ on sheets 3 and 4	To correct an omission
Schedule 10, part 2, condition 19	Any monitoring report compiled in accordance with the monitoring plans provided under conditions 16, 17 and 18 must be provided to the <del>relevant body</del> <a href="#">MMO</a> no later than four months following receipt by the undertaker of the results of monitoring to which it relates, unless otherwise agreed with the <del>relevant body</del> <a href="#">MMO</a> in writing		In response to a request by the MMO
Schedule 11, part 2, condition 20	Any monitoring report compiled in accordance with the monitoring plans provided under conditions 17, 18 and 19 must be provided to the <del>relevant body</del> <a href="#">MMO</a> no later than four months following receipt by the undertaker of the results of monitoring to which it relates, unless otherwise agreed with the <del>relevant body</del> <a href="#">MMO</a> in writing.		In response to a request by the MMO

**Table of Amendments to the Draft Development Consent Order – Change Request**

Reference	Amendment		Reason
Articles			
Article 38, Trees subject to tree preservation orders	Subject to paragraph (2), the undertaker must not fell, lop, prune, or cut back the roots of any tree which is the subject of a tree preservation order <a href="#">except as provided in Schedule 12 Part 1 (trees subject to tree preservation orders)</a> . The undertaker may fell or lop any tree within or encroaching upon the Order limits that is subject to a tree preservation order <a href="#">is not listed in Schedule 12 Part 1 (trees subject to tree preservation orders)</a> and which tree preservation order which was made after 12 March 2024, or cut back its roots, if it reasonably believes it to be necessary in order to do so in order to prevent the tree—		As TPO'd trees which may need to be lopped have been identified
Schedule 4, Traffic regulation	Part 2, Rights of way to be temporarily closed or restricted		This Prow has always been in 2 parts but was inaccurately shown on previous versions, this change corrects that
	FP8 179	Between points <a href="#">Mw to Mx</a> and <a href="#">My to Mz</a> as shown on sheets 10 and 11 of the temporary closure of public rights of way plan	
	Part 4, Speed limits		To add the additional speed limits forming part of the change request and to correct a typographic error
	(1) Area	(2) Road name, number (3) Speed Limit and length	

	District of Tendring	B1033 (Thorpe Road / Frinton Road) for a distance of 1.4 kilometres shown with a dashed line on sheet 1 on the Temporary Speed Reduction Plans	40 miles per hour	
	District of Tendring	Golden Lane for a distance of 0.9 kilometres shown with a dashed line on sheet 2 of the Temporary Speed Reduction Plans	40 miles per hour	
	District of Tendring	B1035 Thorpe Road/Tendring Road/ <a href="#">Swan Road</a> for a distance of 0.7 kilometres shown with a dashed line on sheet 1 of the Temporary Speed Reduction Plans	30 miles per hour	
	District of Tendring	B1035 (Clacton Road) for a distance of 0.5 kilometres as shown with a dashed line on sheet 4 on the Temporary Speed Reduction Plans	40 miles per hour	

	District of Tendring	Bentley Road, for a distance of 1.6 kilometres shown with a dashed line on sheets 6 of the Temporary Speed Reduction Plans	40 miles per hour	
	District of Tendring	Ardleigh Road, for a distance of 1.2 kilometres shown with a dashed line on sheet 7 of the Temporary Speed Reduction Plans	30 miles per hour	
Schedule 5, access to works	Insert new line:			To add the additional access forming part of the change request
	AC13	From and across the public highway Ardleigh Road, for access to works during construction and operation as shown on sheets 17 and 19 of the street works and access plan		
Schedules 6 and 7	Addition of plot 02-001A, deletion of plots 13-021, 13-024, 14-002, 09-021, 09-022, 20-002, 20-004			To reflect changes arising from the change request
Schedule 12, new part 1	Tree Preservation Orders			As TPO'd trees which may need to be lopped have been identified
	In the District of Tendring:			
	(1) Tree preservation Order reference	(2) Tree Preservation Order Location	(3) Trees which may be damaged, lopped or cut back, or the roots of	

						which may be encroached upon, as listed in the Tree Preservation Order	
	23/00005/TPO	Stones Green Lane, Tendring				T.1, T.2, T.3, T.4, T.5, T.6 and G.2 (comprising 2 oaks)	
	21/00009/TPO	Welhams Farm, Bentley Road, Little Bentley				G.1 (comprising 3 oaks and 2 ash)	
Schedule 12, Part 2	Grid coordinates have been updated as follows:						To reflect changes arising from the change request
	(1) Grid coordinates		(2) Identifier as shown on the hedgerow and protected tree plan	(3) Grid coordinates		(4) Identifier as shown on the hedgerow and protected tree plan	
	Easting	Northing		Easting	Northing		
	6113362.95	22667341.5	53a	611282.42	226578.51	53b	
	37	890					
Schedule 1 Offshore co-ordinate	Numerous changes to the co-ordinates listed in the table						To reflect changes arising from the change request



**Table of Amendments to the Draft Development Consent Order – Deadline 1**

Reference	Amendment	Reason
<b>Articles</b>		
<b>Preamble</b>	The Secretary of State, in exercise of the powers conferred by sections [114, 115, 120 <del> and </del> , 132, <a href="#">140 and 149A</a> and schedule 5] to the 2008 Act, makes the following Order:	To properly reflect the contents of the dDCO.
<b>Article 2, interpretations</b>	<del>“address” includes any number or address used for the purposes of electronic transmission;</del>	Change made at the request of the ExA
	New definition inserted: <a href="#">“2016 regulations” means the Environmental Permitting (England and Wales) Regulations 2016;</a>  <a href="#">(1) S.I. 2016/1154.</a>	Change made at the request of the ExA

	<p>“cable protection” means <u>physical</u> measures <del>to protect</del><u>for the protection of</u> cables from physical damage including but not limited to concrete mattresses, <del>with or without frond devices</del><u>split pipe system</u>, and/or rock placement, <del>the use of bagged solutions filled with grout or other materials,</del><u>and</u> protective aprons or coverings, <del>mattresses, flow energy dissipation devices and rock and gravel burial (including material used for cable crossings);</del></p>	To more precisely reflect the project description
	<p>“foundation” means any of a monopile, multi-leg pin-piled jacket, mono suction caisson, multi-leg suction caisson jacket, <del>mono gravity based system or multi-leg gravity based system jacket;</del></p> <p><del>“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete with a base which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;</del></p>	To reflect the removal of gravity base foundation types as an option
	<p><del>“HVAC” means high voltage alternating current;</del></p> <p><del>“HVDC” means high voltage direct current;</del></p>	Deletion of definitions not used in the dDCO
	<p><del>“m” means metres, “m<sup>2</sup>” means square metres and m<sup>3</sup> means cubic metres;</del></p>	Change made at the request of the ExA
	<p>“mean low water springs” or “MLWS” means the <u>lowest level which spring tides reach on</u> average height of all low waters above Chart Datum <u>over a period of time</u>;</p>	To improve accuracy

	<p>New definition inserted:</p> <p><u>“National Highways” means National Highways Limited (company number 09346363) whose registered office is Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ or any such successor or replacement body that may from time to time be primarily responsible for the functions, duties and responsibilities currently exercised by that statutory body;</u></p>	Definition added following a request for it from National Highways
	<p>“requirements” means <u>or a reference to a numbered requirement is a reference to</u>, those matters set out in Schedule 2 (requirements) to this Order;</p>	To better align with the draft North Falls DCO
	<p>New definition inserted:</p> <p><u>“stage” for the purposes of the requirements means the phase of Works, being the Works to be carried out at the same time as set out in the order in which all of the Works are planned to be undertaken;</u></p>	Change made at the request of the ExA
	<p><b>Article 7, Benefit of the Order</b></p> <p>In paragraph (2) (b)</p> <p>(c) grant to another person (the “lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order <u>(excluding the deemed marine licences referred to in paragraph (3) below)</u> and such related statutory rights as may be so agreed;</p>	Change made in response to the MMO relevant representation requesting amendment
	<p>In paragraph (3)(b)</p> <p>(b) Where an agreement has been made in accordance with paragraph (2)(b), <del>grant</del><u>transfer</u> to the lessee for the duration of the period mentioned in paragraph (2)(b), the whole of any of the deemed marine licences and such related statutory rights as may be so agreed.</p>	Change made in response to the MMO relevant representation requesting amendment

	<p>New sub- paragraphs (9) and (10 inserted</p> <p><u>(9) Prior to any transfer or grant under this article taking effect, whether or not the consent of the Secretary of State is required, the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority.</u></p> <p><u>(10) The notices required under paragraphs (5) and (9) must—</u></p> <p><u>(c) state—</u></p> <p><u>(i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;</u></p> <p><u>(ii) subject to paragraph (11), the date on which the transfer will take effect;</u></p> <p><u>(iii) the provisions to be transferred or granted; and</u></p> <p><u>(iv) the restrictions, liabilities and obligations that, in accordance with paragraph (7)(c), will apply to the person exercising the powers transferred or granted.</u></p> <p><u>(d) be accompanied by where relevant, a plan showing the works or areas to which the transfer or grant relates.</u></p> <p><del>(e)</del><u>(e)</u></p>	<p>Change made in response to the MMO relevant representation requesting amendment</p>
<p><b>Article 8, Application and modification of legislative provisions</b></p>	<p>(d) regulation 12 (requirement for environmental permit) of the <del>Environmental Permitting (England and Wales) Regulations 2016</del> <u>regulations</u> in respect of a flood risk activity only;</p> <p>(e) the provisions of the Neighbourhood Planning Act 2017() in so far as they relate to the temporary possession of land under articles <del>30 (temporary</del></p>	<p>Consequential to other changes made</p>

	<del>use of land for carrying out the authorised development) and 31</del> (temporary use of land for <u>carrying out the authorised development</u> ) and <u>32 (temporary use of land for maintaining the authorised development)</u> of this Order;	
	Insert new item (i) <u>sections 28E (duties in relation to sites of special scientific interest) and 28H</u> <u>(Statutory undertakers, etc.: duty in relation to carrying out operations) of the</u> <u>Wildlife and Countryside Act 1981 <sup>(2)</sup>.</u> <u><sup>(1)</sup> 1981 c.69.</u>	To allow for operations to be undertaken in the SSSI should hydraulic fracture break out of drilling materials occur
<b>Article 9, Defence to proceedings in respect of statutory nuisance</b>	In paragraph (2) (a) relates to premises used by the undertaker for the purposes of or in connection with the construction, maintenance or decommissioning of the authorised development <u>that the nuisance</u> and is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(); or (b) is a consequence of the construction <del>or</del> maintenance <u>or decommissioning</u> of the authorised development and cannot reasonably be avoided; or  In paragraph (3)  <del>(7)</del> <u>(11)</u> Section 61(9) (consent for work on construction site) of the Control of Pollution Act 1974() does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the	To include decommissioning activities

	construction <del>—or,</del> maintenance <u>or decommissioning</u> of the authorised development.	
<b>Article 16, Traffic regulation</b>	<p><del>21.16. The traffic regulation orders listed in column 3 of Part 3 (traffic regulation orders not applicable to the undertaker) of Schedule 4 (traffic regulation) will not apply to any vehicle being used for</del> <u>Subject to the provisions of this article, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with, <del>or in consequence of,</del> the construction <del>or maintenance</del> of the authorised development: temporarily—</u></p> <p><u>(2) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;</u></p> <p><u>(3) make provision as to the direction or priority of vehicular traffic on any road;</u></p> <p><u>(4) permit, prohibit or restrict the use of any road;</u></p> <p><u>(5) permit, prohibit or restrict vehicular access to any road;</u></p> <p><u>(6) place traffic signs and signals in the extents of the road specified in column (2) of Part 1 (streets to be temporarily closed or restricted) , column (2) of Part 2 (public rights of way to be temporarily close or restricted) and column (3) of Part 3 (speed limits) of Schedule 4 (traffic regulation), and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016<sup>(3)</sup>.</u></p> <p><u>(20) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(b) when in accordance with regulation 3(5) of those regulations.</u></p>	To more precisely set out the power and to better align with the draft North Falls DCO

<p><b>Article 17, Power to alter layout etc. of streets</b></p>	<p>New article inserted:</p> <p><u>17.—(1) Subject to paragraphs (2) and (3), the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with constructing, operating or maintaining the authorised development alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—</u></p> <p><u>(2) alter the level or increase the width of the street including any kerb, footway, cycle track or verge; and</u></p> <p><u>(3) make and maintain passing place(s).</u></p> <p><u>(4) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.</u></p> <p><u>(5) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority. Paragraphs (2) and (3) do not apply where the undertaker is the street authority for a street in which the works are being carried out.</u></p>	<p>To better align with the draft North Falls DCO</p>
<p><b>Article 19, Authority to survey and investigate the land</b></p>	<p><b>19.</b>The undertaker may for the purposes of this Order enter on any land <u>above MLWS</u> shown within the Order limits or which may be affected by the authorised development and—</p> <p>(b) survey or investigate the land;</p> <p>(c) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer <del>and</del> subsoil and <u>groundwater, and</u> remove soil <u>and groundwater</u> samples;</p>	<p>To define that the power only applies above MHWS and not in the intertidal or offshore areas</p> <p>To better align with the draft North Falls DCO</p>

	<p>(d) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and</p> <p>(e) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, <a href="#">bore holes or trenches</a>.</p> <p>(4) No trial holes, <a href="#">bore holes or trenches</a> are to be made under this article—</p>	
<b>Article 29, Modification of Part 1 of the 1965 Act</b>	<p>In (5)(b):</p> <p><b>30.</b> In this Schedule, references to entering on and taking possession of land do not include doing so under article 19 (<a href="#">authority to survey and investigate the land</a>), article 20 (protective work to buildings), article <del>30</del>31 (temporary use of land for carrying out the authorised development) or article <del>31</del>32 (temporary use of land for maintaining the authorised development) of the Five Estuaries Offshore Wind Farm Order 202[●] .</p>	To improve accuracy
<b>Article 32, Temporary use of land for maintaining the authorised</b>	<p>(11) In this article “the maintenance period”, in relation to any part of the authorised development means the period during which the authorised development exports <del>electricity to the national electricity transmission network</del> <a href="#">is in operation after construction and commissioning is complete</a>.</p>	To improve accuracy
<b>Schedule 1, Authorised development</b>	<p><del>20. Work No. 4A — not used</del></p> <p>Work No. <del>4B</del>4A —Construction of a temporary construction compound and laydown area (Beach Works TCC), improvement and use of existing access routes including creation of construction access to Work Nos. 3, 4, and 5, works</p>	Change made at the request of the ExA



	to junctions and visibility splays, temporary construction working areas and laydown area.	
	Work No.13A — Works to permanently widen and improve the junction at Bentley Road and the A120, including removal of street furniture, <del>central reservation barriers and</del> provision of merger lane taper, drainage works including creation of new highway drainage and works of improvement to drainage, creation and improvement of connections to existing drains and watercourses; creation and use of a temporary construction compound and working areas.	To remove the central reservation barriers as it has been agreed with National Highways that these will not be altered as part of the Work
	Work No 15B — Construction of electrical substation infrastructure including: (e)(b) creation of a platform <del>or foundations</del> ;	Foundation is defined as the wind turbine foundation so the term has been deleted here
Schedule 2, Requirements	<u>PART 1</u>	
	<u>Requirements</u>	
	Parameter	Value
	Maximum number of wind turbine generators	79
	Maximum total rotor swept area (metres squared)	4,194,340
	Maximum height of wind turbine generators when measured from LAT to the tip of the vertical blade (metres)	<del>399</del> <u>370</u>
Maximum rotor diameter of each wind turbine generator (metres)	<del>360</del> <u>340</u>	
		To secure the reduction in the maximum tip height agreed with the Ministry of Defence as necessary to prevent an adverse radar impact;  and  to secure the removal of gravity base foundation types as an option with resultant reduction in seabed footprints.

Minimum distance from MHWS to the lowest point of the rotating blade for each wind turbine generator (metres)	28
Minimum distance between wind turbine generators (in all directions measured from the centre point of each wind turbine generator) (metres)	830
Maximum pile diameter of single pile structures (metres)	15
Maximum pile diameter of three pile structures (metres)	4
Maximum pile diameter of four pile structures (metres)	3.5
Maximum total seabed footprint for wind turbine generators (excluding scour protection) (metres squared)	<del>298,400</del> <u>992,274</u>
Maximum total seabed footprint for wind turbine generators (including scour protection) (metres squared)	<del>1,313,537</del> <u>834,896</u>
Maximum total scour volume for wind turbine generator foundations (metres cubed)	<del>2,109,300</del> <u>1,248,850</u>
Maximum total length of inter-array cables (kilometres)	200
Maximum inter-array cable protection area (metres squared)	321,600
Maximum inter-array cable protection volume (metres cubed)	187,600
Maximum number of offshore substations	2
Maximum dimensions of offshore substations:	

Height when measured from LAT (excluding towers, helipads, mast and cranes) (metres)	105	
Length (metres)	125	
Topside area (metres squared)	100	
Maximum total seabed footprint for offshore substation platforms (excluding scour protection) (metres squared)	<del>14,000</del> <u>33,700</u>	
Maximum total seabed footprint for offshore substation platform foundations (including scour protection) (metres squared)	<del>81,656</del> <u>72,985</u>	
Maximum total scour volume for offshore substation platforms foundations (metres cubed)	<del>148,100</del> <u>125,450</u>	
Maximum total length of export cables (kilometres)	196	
Maximum export cable protection area (metres squared)	178,304	
Maximum export cable protection volume (metres cubed)	129,691	
<p>In paragraph 5</p> <p><del>Substation</del> <u>Onshore substation</u> works</p> <p>Construction of Work No. 15B (the <u>onshore</u> electrical substation) must not commence until details of—</p>		Changes made at the request of the ExA and to improve accuracy

### ~~Detailed design parameters onshore~~

~~The onshore works must not exceed the parameters set out in sub-paragraph (2).~~

- (4) In relation to Work No. 15B (the onshore electrical substation) —
  - (b) the highest part of any building, any external electrical equipment or enclosure, excluding lightning rods, must not exceed ~~15m~~ 15metres above;
  - (c) the total area of the fenced compound (excluding its accesses) must not exceed 58,800 metres squared~~58,800m2~~; and
  - (d) the lightning rods within the fenced compound area must not exceed a height of 18 metres ~~18m~~ above Ordnance Datum;

### ~~Provision of landscaping~~

(5) Work No. 15B must not be commenced until a written landscaping scheme and associated work programme in accordance with the outline landscape and ecology management plan for Work No. 15 has been submitted to and approved by the relevant planning authority.

(6) The written landscaping scheme to be submitted under sub-paragraph (5) must include details of all proposed hard and soft landscaping works including—

- (c) location, number, species, size and planting density of any proposed planting including any trees; and
- (d) implementation timetables for all landscaping works within Work No.15.

(7) The landscaping of Work No.15 must be carried out in accordance with the details approved details under sub-paragraph (5).

	<p><b><u>Detailed design parameters onshore</u></b></p> <p><b><u>6. The onshore works must not exceed the parameters set out in sub-paragraph 1(1).</u></b></p>	
	<p>Paragraph 10(2)</p> <p>(2) The onshore works must be carried out in accordance with the approved <del>details</del><u>archaeological written scheme(s) of investigation</u>.</p>	To improve accuracy
	<p><del>European-protected</del><u>Protected</u> species onshore</p> <p>In paragraph 14 sub-paragraph (2)</p> <p><u>(2) The scheme approved under sub-paragraph (1) must be implemented as approved.</u></p>	Change made at the request of the ExA
	<p>In paragraph 15</p> <p>Any land <del>landward of MLWS within the Order limits</del> which is used temporarily for construction of the onshore works and not ultimately incorporated in</p>	The requirement is already limited to the 'onshore works'

	permanent works or approved landscaping must be reinstated within twelve months of completion of the relevant stage of the onshore works.	
	In paragraph 16 The noise rating level for the standard operation of Work No. 15B <a href="#">(the onshore electrical substation)</a> must not exceed;	Change made at the request of the ExA
	In paragraph 18  Subject to paragraph (2), the undertaker may commence, <del>or exercise powers of compulsory acquisition under Part 5 of this Order</del> in relation to only: (a) build option 1; or (b) build option 2.	Change made as the LPA has not role in controlling use of compulsory powers
<b>Schedule 2</b>	New Part 2 created with content of former schedule 13	Change made at the request of the ExA
	In paragraph 5(4) (4) In relation to Work No. 15B <a href="#">(the onshore electrical substation)</a> — <ul style="list-style-type: none"> <li>(a) the highest part of any building, any external electrical equipment or enclosure, excluding lightning rods, must not exceed <del>15metres</del> <a href="#">15 metres</a> above <a href="#">finished ground level (50.775 metres</a> Ordnance Datum<del>);</del>;</li> <li>(b) the total area of the fenced compound (excluding its accesses) must not exceed 58,800 metres squared; and</li> <li>(c) the lightning rods within the fenced compound area must not exceed a height of 18 metres above <a href="#">finished ground level (53.775 metres</a> Ordnance Datum<del>);</del>;</li> </ul>	
<b>Schedule 7</b>	SCHEDULE 1      Article <del>23</del> <a href="#">24</a>	To better align with the draft North Falls DCO

	<p>(a) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil) in, under, over and/or on the Land, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the “cables”), and in doing so, to use or resort to trenchless installation techniques including (but not limited to) directional drilling beneath sea defences, watercourses, <del>roads</del><u>existing infrastructure, highways</u> and railways;</p> <p>(b) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the additional ducts for electricity cables (including the removal of materials including spoil) in, under, over and/or on the Land, allow the installation and use of electrical cables in the additional ducts, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the “cables”), and in doing so, to use or resort to trenchless installation techniques including (but not limited to) directional drilling beneath sea defences, watercourses, <del>roads</del><u>existing infrastructure, highways</u> and railways;</p> <p>(d) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing,</p>	
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	<p><u>upgrading, inspecting, removing and replacing the electrical infrastructure and cables; including the right to use, maintain, renew improve and alter existing accesses, roads, streets, tracks or ways over the land, providing that such use is not exclusive and exercise of this right must not prevent or unreasonably inhibit use by other parties;</u></p> <p>(k) effect access and egress to <u>and from</u> the highway;</p> <p>(l) alter, fell, lop or cut, coppice wood, uproot, <u>replant</u> trees <del>or</del>, hedges <del>or</del>, shrubs <u>or other vegetation</u> which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed would obstruct or interfere with the operation of the cables and ancillary equipment including ducting;</p> <p>(m) to take and use, remove and discharge water from the Land, and to <u>lay down</u>, install, retain, use, maintain, inspect, <u>adjust</u>, alter, remove, refurbish, reconstruct, <u>upgrade</u>, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, install, <u>retain</u>, use, inspect, maintain, adjust, alter, renew, repair, test or cleanse drainage schemes on the Land or reinstate the any existing drainage scheme on the Land;</p> <p><u>(v) lay out and maintain temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with during any period in which construction, maintenance, repair or renewal decommissioning is being carried out; and</u></p>	
	<p>(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works</p>	To better align with the draft North Falls DCO



	<p>of any kind (including the <del>foundations</del><u>base, substructure</u> or footings thereto);</p> <p>(g) to prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of ecological mitigation areas or areas of habitat creation <u>or reinstatement</u> including any ploughing or grazing without the prior written consent of the undertaker.</p>	
	<p>(h) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil) in, under, over and/or on the Land, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the "cables"), and in doing so, to use or resort to trenchless installation techniques including (but not limited to) directional drilling beneath sea defences, <u>existing infrastructure,</u> watercourses, <del>roads</del><u>highways</u> and railways;</p> <p>(e) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, <u>upgrading,</u> inspecting, removing and replacing ducting, electrical infrastructure and the cables; <u>including the right to use, maintain, renew improve and alter existing accesses, roads, streets, tracks or ways over the land, providing that such use is not exclusive and exercise of this right must not prevent or unreasonably inhibit use by other parties;</u></p>	

	(v) <u>lay out and maintain temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with during any period in which construction, maintenance, repair or renewal decommissioning is being carried out; and</u>	
	<p>(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the <del>foundations</del><u>bases, substructures</u> or footings thereto);</p> <p>(e) to prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of ecological mitigation areas or areas of habitat creation <u>or reinstatement</u>, including any ploughing or grazing without the prior written consent of the undertaker.</p>	Foundation is defined as the wind turbine foundation so the term has been deleted here
	<p>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of the <del>Works</del><u>Authorised Development</u>, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the cables and connection into any adjacent cables and associated works, to take plant and equipment on to adjoining land and make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;</p> <p>(h) repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding, <u>other vegetation</u> and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;</p> <p>(j) lay out <u>and maintain</u> temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with</p>	To better align with the draft North Falls DCO

	during any period in which construction, maintenance, repair or renewal decommissioning is being carried out.	
	(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the <del>foundations</del> <u>substructures</u> or footings thereto) without the prior written consent of the undertaker;	To better align with the draft North Falls DCO
	(b) remove and discharge water from the Land and to <u>lay down</u> , install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, <u>upgrade</u> , replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, to lay down, install, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace a drainage scheme on the Land (the “drainage works”);  (k) effect access <u>and egress</u> to <u>and from</u> the highway;	To better align with the draft North Falls DCO
	(b) construction erection or works of any kind (including the <del>foundations</del> <u>substructures</u> or footings thereto); and	Foundation is defined as the wind turbine foundation so the term has been deleted here
	(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the <del>foundations</del> <u>substructures</u> or footings thereto);	

	(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the <del>foundations</del> <u>substructures</u> or footings thereto);	
<b>Schedule Protective Provisions, throughout</b>	<b>9,</b> 'Shall' has been replaced throughout	To delete use of 'shall'
<b>Schedule 10, Deemed marine licence – Generation Assets, Part 1, Licensed marine activities</b>	<p>In paragraph 1, sub-paragraph (1)</p> <p><u>"aids to navigation management plan" means the aids to navigation management plan to be submitted to the MMO under condition 12 of this licence;</u></p> <p>"array area disposal site" means the site to be used for disposal of inert material of natural origin produced during construction, drilling and seabed preparation for works associated with foundations, cables or installation vessels (including sandwave clearance) to be located within the array area <u>as shown on [plan]</u>;</p> <p>"buoy" means any floating device used for navigational purposes or measurement purposes, including <del>LIDAR</del><u>LiDAR</u> buoys, wave buoys and guard buoys;</p> <p><u>"cable" means cables for the transmission of electricity and includes fibre optic and other communications cables either within the cable or laid alongside;</u></p> <p>"Defence Infrastructure Organisation Safeguarding" means Ministry of Defence Safeguarding, Defence Infrastructure Organisation – Safeguarding, <del>St George's House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY</del> and any successor body to its functions;</p>	Changes made in response to relevant representations from Trinity House, the MMO and Natural England;

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

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

“Kingfisher Information Service” means the information service from non-departmental government body Seafish to be contacted at [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk);

~~“lighting and marking plan” means the lighting and marking plan to be submitted to the MMO under condition 12 of this licence;~~

“Marine Management Organisation” or “MMO” means the Marine Management Organisation, ~~Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH who is~~ the body created under the 2009 Act and who is responsible for the monitoring and enforcement of this licence;

“MCMS” means the Marine Case Management System web portal provided and operated by the MMO;

~~“monopile gravity base structures” means a structure principally of steel, concrete, or steel and concrete with a base which tapers as it rises which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes (or equivalent structures), corrosion protection systems and access platform(s) and equipment;~~

~~“mono suction caisson foundation” means a steel cylindrical structure which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential, and may include additional equipment such as J-tubes;~~

	<p><del>“multi-leg gravity base structure jacket” means a jacket type structure which rests on the seabed due to its own weight with or without added ballast or additional skirts which will have one or more bases to which the jacket structure is attached;</del></p> <p>(6) Unless otherwise advised in writing by the MMO, the <del>Marine Case Management System (“MCMS”)</del> must be used for all licence returns or applications to vary this licence. The MCMS address is: <a href="https://marinelicensing.marinemanagement.org.uk/">https://marinelicensing.marinemanagement.org.uk/</a>.</p>	
	<p>Work No.1-</p> <p>(a) an offshore wind turbine generating station with a gross electrical output of over 100 megawatts comprising up to 79 wind turbine generators each fixed to the seabed by one of monopile foundations or mono suction caisson foundations, <del>or</del> pin-piled jacket foundations, <u>or</u> suction caisson jacket foundations, <del>monopile gravity base structure foundations, multi-leg gravity base structure jacket foundations;</del></p>	

Schedule 10, Part 2, Conditions	<p>In paragraph 1(2)</p> <p>(a) exceed a height of <del>399</del><u>370</u> metres when measured from LAT to the tip of the vertical blade;</p> <p>(b) exceed a rotor diameter of <del>360</del><u>340</u> metres;</p> <p>In paragraph (4)</p> <p>(a) monopile foundations;</p> <p>(b) mono suction caisson foundations;</p> <p><del>(c) monopile gravity base structure foundations;</del></p> <p><del>(d)</del><u>(c)</u> pin-piled jacket foundations;</p> <p><del>(e) suction caisson jacket foundations; or</del></p> <p><del>(f)</del><u>(d)</u> multi-leg gravity base structure jacket foundations.</p> <p>In paragraph (6) and (7)</p> <p>(6) The total seabed footprint area for wind turbine generator foundations must not exceed—</p> <p>(b) <del>284,400</del><u>99,274</u> square metres excluding scour protection; and</p> <p>(c) <del>1,313,537</del><u>834,896</u> square metres including scour protection.</p> <p>(7) The total volume of scour protection material for wind turbine generator foundations must not exceed <del>2,109,300</del><u>1,248,850</u> cubic metres.</p>	<p>To secure the reduction in the maximum tip height agreed with the Ministry of Defence as necessary to prevent an adverse radar impact;</p> <p>and</p> <p>to secure the removal of gravity base foundation types as an option.</p>
	In paragraph 3, sub-paragraph (3)	To delete use of 'shall'

	An operation and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan <del>shall</del> <u>must</u> be submitted to the MMO for approval in consultation with the relevant SNCB at least six months prior to the commencement of the operation of the licensed activities. All operation and maintenance activities <del>shall</del> <u>must</u> be carried out in accordance with the approved plan.	
	(8) The undertaker must inform the Kingfisher Information Service of <u>Seafish</u> details regarding the vessel routes, timings and locations relating to the construction of the authorised development or relevant stage—	Changes made in response to relevant representations from the MMO
	<p>In paragraph 6, sub-paragraph 8 and new sub-paragraph 16</p> <p>(8) The undertaker must inform the Kingfisher Information Service of <u>Seafish</u> details regarding the vessel routes, timings and locations relating to the construction of the authorised development or relevant stage—</p> <p>(b) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher <u>Fortnightly</u> Bulletin and offshore hazard awareness data; and</p> <p><u>(16) Should the undertaker become aware that any of the information on which the granting of this licence was based was materially false or misleading, the undertaker must notify the MMO of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was material false or misleading and must provide to the MMO the correct information.</u></p>	Changes made in response to relevant representations from the MMO
	<p>In paragraph 7, sub-paragraph (3) and (4)</p> <p>(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the <del>lighting and</del></p>	Changes made in response to relevant representations from



	<p><del>marking</del><a href="#">aid to navigation management</a> plan agreed pursuant to condition 12(1)(i) using the reporting system provided by Trinity House.</p> <p>(4) In the event that the provisions of condition <del>76</del>(12) <a href="#">or 6(13)</a> are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.</p>	Trinity House
<b>Schedule 10, Deemed marine licence – generation assets, Part 2 Conditions</b>	<p>In paragraph 10, sub-paragraph (2), (3) and (9)</p> <p>The undertaker must ensure that any coatings and/or treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by Health and Safety Executive <a href="#">and, in so far as they are applicable, the Environment Agency Pollution Prevention Control Guidelines</a>.</p> <p>(5) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by <del>31 January</del><a href="#">15 February</a> each year for the months August to January inclusive, and by <del>31 July</del><a href="#">15 August</a> each year for the months February to July inclusive.</p> <p>(9) All dropped objects within the Order limits must be reported to the MMO using the dropped object procedure form as soon as reasonably practicable <del>following</del><a href="#">and in any event within 96 hours of</a> the undertaker becoming aware of an incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.</p>	Changes made in response to relevant representations from the MMO and Trinity House
	<p>In paragraph 12(1)</p> <p>(g) <del>a lighting and marking</del><a href="#">an aids to navigation management</a> plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of</p>	Changes made in response to relevant representations from Trinity House

	condition 7 relating to that stage for the lifetime of the authorised development;	
	<u>(6) No percussive piling associated with wind turbine generator foundations may take place between 25th November to 3rd January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO.</u>	Paragraph inserted to secure the piling restriction for the protection of herring spawning
	In paragraph 15(2) (2) Any changes to the supplied details must be notified to the MMO in writing <u>not less than 24 hours</u> prior to the agent, contractor or vessel engaging in the licensed activities.	Changes made in response to relevant representations from the MMO
	In paragraph 18 (5) <u>In the event that the reports provided to the MMO under sub-paragraph (4) identify a need for additional monitoring, the requirement for any additional monitoring will be agreed with the MMO in writing and implemented as agreed.</u>	Changes made in response to relevant representations from the MMO
	In paragraph 25 <b><u>Reporting of scour and cable protection:</u></b> <u>(2) The report must include the following information—</u> <u>(b) the location of cable protection and scour protection;</u> <u>(c) the volume of cable protection and scour protection; and</u> <u>(d) any other information relating to the cable protection and scour protection as agreed between the MMO and the undertaker</u>	Changes made in response to relevant representations from the MMO and Natural England

<p><b>Schedule 11, Deemed marine licence – Transmission Assets, Part 1, Licenced Marine Activities</b></p>	<p><u>plan to be submitted to the MMO under the conditions of this licence</u><del>“aids to navigation management plan” means the aids to navigation and management;</del></p> <p>“buoy” means any floating device used for navigational purposes or measurement purposes, including <del>LIDAR</del><u>LiDAR</u> buoys, wave buoys and guard buoys;</p> <p><u>“cable” means cables for the transmission of electricity and includes fibre optic and other communications cables either within the cable or laid alongside;</u></p> <p><u>“JNCC” means the Joint Nature Conservation Committee;</u></p> <p><u>“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded;</u></p> <p><del>“lighting and marking plan” means the lighting and marking plan to be submitted to the MMO under the conditions of this licence;</del></p> <p><del>“monopile gravity base structures” means a structure principally of steel, concrete, or steel and concrete with a base which tapers as it rises which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes (or equivalent structures), corrosion protection systems and access platform(s) and equipment;</del></p>	<p>Changes made in response to relevant representations from the MMO and Trinity House</p>
<p><b>Schedule 11, Deemed marine</b></p>	<p>In paragraph 2(1)</p>	<p>Changes made to reflect the removal of gravity</p>

<b>licence Transmission, Part 2, Conditions</b>	<p>– Offshore substation platform foundation structures forming part of the authorised scheme must be one of either monopile foundations, <u>or</u> jacket foundations <del>or gravity base structures</del>.</p>	base foundation options
	<p>In paragraph 4, sub-paragraph (4)</p> <p>An operation and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan <del>shall</del><u>must</u> be submitted to the MMO for approval in consultation with the relevant SNCB at least six months prior to the commencement of the operation of the licensed activities. All operation and maintenance activities <del>shall</del><u>must</u> be carried out in accordance with the approved plan.</p>	To remove the word 'shall'
	<p>In paragraph 8, sub-paragraph (3) and (5)</p> <p>(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the <del>lighting and marking</del><u>aids to navigation management</u> plan agreed pursuant to condition 13(1)(i) using the reporting system provided by Trinity House.</p> <p>(5) In the event that the provisions of condition <del>8</del><u>7(12) or 7(13)</u> are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.</p>	Changes made in response to relevant representations from Trinity House
	<p>In paragraph 13, sub-paragraph (h)</p> <p>(h) <del>a lighting and marking</del><u>an aids to navigation management</u> plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 relating to that stage for the lifetime of the authorised development;</p> <p>sub-paragraph (6)</p>	

		<p><u>(6) No percussive piling associated with offshore substation platform foundations may take place between 25th November to 3rd January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO.</u></p>	Paragraph inserted to secure the piling restriction for the protection of herring spawning
		<p><b><u>Reporting cable protection</u></b></p> <p><u>26.—(4) Not more than four months following completion of the construction of the authorised project, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection used for the authorised project.</u></p> <p><u>(5) The report must include the following information—</u></p> <p><u>(c) the location of cable protection protection;</u></p> <p><u>(d) the volume of cable protection protection; and</u></p> <p><u>any other information relating to the cable protection as agreed between the MMO and the undertaker</u></p>	Changes made in response to relevant representations from the MMO and Natural England
<b>Schedule 13</b>			
<b>Schedule Compensation</b>	13,	<p>In paragraph 2, sub-paragraph (b)</p> <p>(b) <del>Natural England</del> <u>the SNCB</u>;</p> <p>In paragraph 3</p> <p>Unless the Secretary of State confirms in writing that the compensation measure has been delivered to his satisfaction, then the following details</p>	Changes made in response to relevant representations from Natural England

	<p>contained with the LIMP, which must be in accordance with the outline LIMP, must be submitted to the Secretary of State for approval in consultation with the <del>Natural England</del><a href="#">SNCB</a> and the relevant planning authority for the compensation measure prior to the commencement of the offshore works.</p>	
	<p>In paragraphs 4 and 5</p> <p>4. The undertaker must carry out the compensation measure as approved by the Secretary of State in consultation with <del>Natural England</del><a href="#">the SNCB</a> and the relevant planning authority.</p> <p>5. No wind turbine generator forming part of Work No. 1 may commence operation until the compensation measure has been implemented for <del>three</del><a href="#">four</a> breeding seasons, unless commencement of operation at an earlier date is approved in writing by the Secretary of State. For the purposes of this paragraph each breeding season is 1 March to 30 September of each year inclusive.</p> <p>In paragraph 9</p> <p>In the event of any conflict between the terms of this Order and the LIMP then the provisions of this Order <del>shall</del><a href="#">will</a> prevail.</p>	<p>To remove the word 'shall'</p>