

**THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010**

**NORTH FALLS OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER**

**PINS REFERENCE EN010119**

---

**DEADLINE 6: PORT OF LONDON  
AUTHORITY'S COMMENTS ON SUBMISSIONS  
RECEIVED AT DEADLINE 5**

---

## **1 INTRODUCTION**

1.1 This is a written submission made on behalf of the Port of London Authority (“**PLA**”) in respect of comments on Deadline 5 submissions.

1.2 Documents referred to in this submission are:

- Outline Sediment Disposal Management Plan (REP5-043);
- Outline Cable Specification and Installation Plan (REP5-045);
- Outline Navigation and Installation Plan (REP5-029);
- Schedule of Mitigation (REP5-007);
- Applicant’s Response to ExA’s Second Written Questions (REP5-054) and Appendix to Applicant’s Response to ExA’s Second Written Questions (REP5-070);
- Applicant’s Response to Deadline 4 Submissions (REP5-056); and
- Draft Development Consent Order (REP5-009)

## **2 OUTLINE SEDIMENT DISPOSAL MANAGEMENT PLAN (REP5-043)**

2.1 The PLA welcomes the updates to the outline sediment disposal management plan (“**oSDMP**”) at deadline 5. These updates address many of the concerns raised by the PLA in its deadline 4 response.

2.2 Figure 3-1 which showed the disposal zone constraints, including the ‘Sunk DW Buffer’, the ‘Trinity DW Buffer’ and the ‘Pilot Boarding Station Buffers’ has been removed from the document and reference is now made to the Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan [REP4-043]. The commitment in paragraph 21 of the oSDMP now states that *“all disposal material that is created from construction activities will not be disposed of within the areas proposed for deeper burial of the export cable (“Sunk A – Sunk DW Buffers”, “Sunk B – Sunk DW Buffers” and “Trinity – Trinity DW buffers”) shown in in Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan [REP4-043].”* The PLA has no objection to this revised wording and has highlighted a minor typo that requires correction in underline.

2.3 A similar approach, which refers to Plan REP4-043 is now taken in relation to the Pilot Boarding Station Buffers and paragraph 25 has been updated, removing the words “where possible” and making the commitment clear in relation to the pilot boarding area. This is welcomed.

2.4 The only outstanding matter relates to ensuring that any disposal material should also not be placed in areas that could migrate into either the deep water routes or the pilot boarding area. The approach to this should be clear in the oSDMP.

## **3 OUTLINE CABLE SPECIFICATION AND INSTALLATION PLAN (REP5-045)**

3.1 The PLA shared its comments on the outline Cable Specification and Installation Plan (“**oCSIP**”) with the Applicant prior to deadline 5. Outstanding comments include:

- The oCSIP sets out the principles with which the final CSIP must accord. Given the importance of this document, the CSIP must be in strict accordance with the oCSIP. The scope of the document needs to be made clear – currently it is stated at paragraph 4 that it covers the installation and cable route preparation (there is no reference to maintenance). At paragraph 30 in relation to the DWRs the reference is to the cables being designed, installed, maintained and operated but in paragraph 31 the reference

is only to installation. The oCSIP and CSIP must be clear that any commitments relating to the DWRs apply to both installation and maintenance.

- It is noted that the CSIP will be submitted for approval by the Marine Management Organisation (“**MMO**”). Consistent with its approach to VEOWF, the PLA seeks protective provisions in relation to the CSIP including the undertaker obtaining the PLA’s approval in writing of the CSIP before it is submitted to the MMO.
- It should be clarified if any wet storage is proposed and if it is, then the oCSIP should be updated to commit to no wet storage within the DWRs.
- At section 4.3 the text should be updated to make it clearer in relation to the Applicant’s approach to cable protection in the DWRs and in the vicinity of the Sunk pilot boarding area. Currently the document is silent on the DWRs and states in relation to the vicinity of the Sunk pilot boarding area that “reasonable endeavours” will be made to avoid the use of cable protection. Given the implications of cable protection in terms of reduced water depths, there could be significant implications if water depths were reduced in the area where pilots were trying to board deeper draughted vessels. The PLA would recommend replicating the wording in the oNIP which is clearer on this point and would ensure that the two documents are consistent with each other
- Given the indicative locations for the cable crossings of North Falls, Sealink and Neuconnect but reflecting that these locations are indicative, the applicant should commit in the oCSIP at paragraph 45 to not crossing these projects within the DWRs. Again the wording in the oNIP is clearer on this point and there should be consistency across the documents.

3.2 Many of the commitments will be subject to a Cable Burial Risk Assessment (“**CBRA**”) for which a meaningful one cannot be submitted to the Examination because of a pending geotechnical survey campaign and so there is uncertainty on whether the applicant can deliver these commitments. Therefore, the mechanism to review and comment on the final CSIP including CBRA is of great importance.

3.3 In relation to UXO section 13 of the oCSIP now refers to the outline Navigation and Installation Plan (“**oNIP**”) and the protocol in Section 4.3 of the oNIP. Comments are provided on the oNIP in section 4 below.

3.4 The PLA welcomes the updates to the document at paras 17 and 19 to include a commitment to not relocating archaeology finds and boulders within the Deep Water Routes.

#### **4 OUTLINE NAVIGATION AND INSTALLATION PLAN (REP5-029)**

4.1 The PLA shared its comments with the Applicant on the oNIP prior to deadline 5 and its outstanding comments include:

- The NIP applies “from the start of offshore construction activities.” It needs to be clear when this is i.e. is it from “commencement” see the PLA’s comments on commence as set out in its Written Representation [REP2-056].
- The NIP will be submitted for approval by the MMO. Consistent with its approach to VEOWF, the PLA seeks protective provisions in relation to the NIP including the undertaker obtaining the PLA’s approval in writing of the NIP before it is submitted to the MMO.
- Fig 2.1 The Trinity DWR full extent is not clear currently due to the overlap of the Pilotage Area circles.
- 2.2.1 para 11. It should be clarified whether any freespan clearance is proposed as it is not currently provided for.

- 2.3.2 paras 15 and 16 – The projects referred to include VEOWF and SeaLink. Other known projects which could overlap with North Falls (e.g. Tarchon) should also be referenced.
- Table 2.3 The indicative construction programme is the high level programme for the project rather than the high level programme for offshore activities. The PLA would have expected the entries in the table to then form the basis for the various tables in section 3 (surveys, UXO, PLGR etc).
- Tables in section 3. It should be explained why none of the vessel details have been included in the tables. Once vessel types / actual vessels are known then relevant interested parties should be provided with the details. Where commitments are being made they should be provided in the tables in the oNIP – for example, table 3.5 currently says cable joints ‘tbc’ but the oCSIP commits to planned field joints not being located in the DWR areas.

## **5 SCHEDULE OF MITIGATION (REP5-007)**

- 5.1 The Schedule of Mitigation [REP5-007] was updated at deadline 5 and the amendments in relation to Shipping and Navigation are set out in table 2.8. These include an embedded mitigation relating to the Deep Water Routes which reflects the updates proposed to Schedule 1, Part 3, requirement 2(3). Whilst the PLA welcomes this embedded mitigation being set out in the Schedule of Mitigation, the PLA would note that the area for deeper cable installation is not yet agreed (see section 2 of the PLA’s Deadline 5 response [REP5-111]).

## **6 APPLICANT’S RESPONSE TO EXA’S SECOND WRITTEN QUESTIONS (REP5-054) AND APPENDIX TO APPLICANT’S RESPONSE TO EXA’S SECOND WRITTEN QUESTIONS (REP5-070);**

- 6.1 See separate document “PLA Response to the Applicant’s Response to the ExA Second Written Questions.”

## **7 APPLICANT’S RESPONSE TO DEADLINE 4 SUBMISSIONS (REP5-056)**

- 7.1 The Applicant has no comments on the PLA’s post hearing summaries of oral submissions. Its response to the PLA’s comments on any submissions at the previous deadline are set out in table 2.1414. Given that the Applicant’s response either signpost to documents that the PLA comments on elsewhere in this representation, or maintain its position in relation to Protective Provisions the PLA does not repeat its comments here.
- 7.2 In relation to REP4-087\_b the Applicant and the PLA have discussed further the potential impact on the PLA’s navigational equipment. The PLA expects a technical paper to be submitted by the Applicant at deadline 6 which should allow the PLA to confirm that there will be no impact on its onshore equipment.

## **8 DRAFT DEVELOPMENT CONSENT ORDER (REP5-009)**

- 8.1 At deadline 5 the PLA note that further updates have been made to the draft development consent order (“dDCO”) [REP5-009]. The changes of relevance to the PLA are as follows:
- a. Part 3 Requirements – Requirement 2(3) has been updated to read:

(3) Any part of Work No. 3 and any associated development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be **designed**, installed, **operated** and maintained at a level which would not preclude **or impede** dredging:

(a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;

(b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and

(c) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum: ("**the Updated Requirement**")

b. Schedule 9 Deemed Marine Licence for the Transmission Assets ("**the DML**") includes:

i. the addition of a definition of the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, London Gateway Port Limited, the PLA and the local harbour authorities which includes the PLA.

ii. Condition 13(3) extends the list of activities where in the areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan navigable depth may not be reduced to any extent to 2(a) and 2(e) in addition to 2(f).

iii. Condition 13(4) now reads:

(4) An operations and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB at least six months prior to the commencement of operations. All operation and maintenance activities shall be carried out in accordance with the approved [operations and maintenance plan and the approved cable specification and installation plan](#).

iv. Condition 22(1) "pre-construction plans and documentation" requires the MMO to consult (in relation to the cable specification and installation plan, the navigation and installation plan and the sediment disposal management plan (under sub-paragraphs (h), (n) and (o)) only) the local harbour authorities

v. Condition 22(h)(ii) now reads: "a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum (excluding the areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced) and, in the event that any area of cable protection exceeding 5% of navigable depth is identified (in areas other than those shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan), details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;

vi. Condition 23(4) has been expanded to read:

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 22, unless otherwise agreed in writing by the MMO ([provided that the MMO has consulted with any party that it was required to consult with in relation to a relevant plan, protocol, statement, scheme or details pursuant to condition 22](#)).

8.2 As per the PLA's Deadline 5 submission – Comments on submissions received at Deadline 4 [REP5-111], whilst the changes are welcomed, further changes are required to the dDCO (in addition to protective provisions for the benefit of the PLA and points previously raised by the PLA regarding the definitions of maintain and commence and transfer of benefit). These further changes are as follows:

- a. Regarding the Updated Requirement 2(3), the Requirement should reference the authorised development rather than just "*Work No. 3 and any associated development*" and include a sub-paragraph (4) as included in the PLA's response to ExAQ2 to read:

*(4) The undertaker must not carry out wet storage or relocate any boulders or archaeological finds to or within the three areas referred to in paragraph (3).*

- b. On the DML to assist the ExA we have annexed to this submission as Appendix 1 a full mark-up of the changes which the PLA would still wish to see. In summary:

- i. The Updated Requirement (as proposed to be amended) should be included in the DML at condition 10 as sub-paragraph (4).
- ii. Condition 13(3) should also reference 2(d) which is cable remedial burial.
- iii. Condition 22(i) is welcomed regarding consultation but the PLA would want final plans to be agreed with the PLA prior to submission to the MMO through protective provisions or a further amendment to the DML.
- iv. There are other instances where the PLA should be referenced as a consultee in the DML, nor are they referenced in condition 16 regarding notifications and inspections. Consistent with the PLA's representations on the VEOWF the PLA would expect to be referenced in the following Conditions: 13(4), 16(8) to(14), 17(2), 22, 26(1), 28(1) 28(3) and 28(4).
- v. As currently drafted the DML only requires the NIP and the oSDMP to accord with the principles of the oNIP and oSDMP and the CSIP to accord with the oCSIP (condition 22). There is the potential therefore for the final documents to change and for those changes to detrimentally impact the Port of London either temporarily or permanently. The final documents must be in strict accordance with the relevant outline document.
- vi. Condition 22(1)(iii) should reference the length, depth and arrangement of cables comprising Work Nos. 2, 3 and 4A including cable crossings;
- vii. Condition 22(1)(h) which sets out the requirements for the CSIP needs to be updated to include the following:

*"a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 10(4)" i.e the design parameter.*

Current limb (iii) of Condition 22(h) should be updated with the changes in red

*"proposals for the volume, **depth** and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes, **actual depths** and areas post construction;"*

- viii. We have added a proposed new condition 30 to deal with consultation with the local harbour authorities on the pre-construction, construction and post construction monitoring which reads:

**"Pre-construction, Construction and Post-construction monitoring and the local harbour authorities**

(1) The undertaker must consult the local harbour authorities on the proposed activities and programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring and related reporting within the Areas of Interest no less than 20 business days before such survey work is programmed to commence. The undertaker must have regard to any request made by the local harbour authorities for reasonable amendment to the proposed activities or programme, which request must be made to the undertaker within 5 business days of receipt of the details of the proposed activities and programme.

(2) The undertaker must notify the local harbour authorities of the final planned programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring within the Areas of Interest no less than 5 business days before such survey work is programmed to begin.

(3) The undertaker must consult the local harbour authorities on any application for marine licensing for the clearance of unexploded ordnance within or which may affect the Areas of Interest before such applications are submitted to the MMO. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed application, which request must be made to the undertaker within 10 business days of receipt of the details of the proposed application.

(4) The undertaker must notify the local harbour authorities of the final programme for any clearance of unexploded ordnance to be undertaken within the Areas of Interest no less than 20 business days before such disposal is programmed to begin.

- ix. We have added a remediation provision as condition 36 which reads:

**"Remediation**

36. (1) Where, following the installation or maintenance of cables forming Work No. 3, located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan

- (a) the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer;
- (b) the area shown shaded in pink and labelled Trinity – Trinity DW Buffer;
- (c) the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer;

it is identified by the undertaker (who shall notify the MMO and the local harbour authorities as soon as reasonably practicable of this fact and in any event within 2 business days) or, following inspection by a local harbour authority (and the same is notified to the undertaker as soon as reasonably practicable), that the level of any cable is such that the condition 10(4) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of condition 10(4) are no longer being achieved, then, unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker is required to carry out remediation works as specified in the cable specification and installation plan subject to subject to sub paragraph (2) below.

(2) Unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker will carry out the following arrangements for the carrying out the remediation works:

(a) the undertaker will re-bury the cable to the required specification to achieve the requirements of condition 10(4); and

(b) following the completion of the works in sub-paragraph (2)(a), if it is identified by the undertaker or the local harbour authorities (following inspection) that the required specification is not achieved, then the undertaker will remove the cable without unreasonable delay and thereafter relay a new cable pursuant to an updated cable specification and installation plan approved by the MMO and the local harbour authorities which updated cable specification and installation plan specifically identifies and addresses why the previous cable burial was not successful, how that has been addressed and what measures are to be used in relaying the cable to prevent the failure reoccurring.

(3) The steps in this paragraph shall be repeated until the requirement in condition 10(4) is achieved or the cable is permanently removed from the areas referred to in paragraph 36(1).

8.3 The PLA's position remains that it should have the benefit of Protective Provisions ("**PPs**") and we enclose as Appendix 2, a legal opinion from Robert Walton KC responding to the Applicant's position on this issue. The legal opinion advises that:

a. the Applicant's principle objection to the inclusion of Protective Provisions on the ground that the DCO would not authorise any works within the PLA's jurisdictional limits is unsupported by any legal authority. It is beyond sensible argument to suggest that activities / works undertaken in the Sunk and Trinity Deep Water Routes ('DWRs') could not adversely affect the PLA's statutory undertaking in terms of the efficient operation and sustainable growth of the Port of London;

b. there can be no in principle objection to the use of Protective Provisions simply on the basis that the PLA would need a licence if it wanted to dredge the DWRs;

c. both the PLA and LGPL have provided examples of DCOs which do have PPs in relation to works undertaken outside the relevant statutory undertaker's jurisdictional limits, and requiring the undertaker's pre-submission approval of applications being made to third party regulators. But even if there were not directly analogous DCOs, the fact that a proposed PP might be unprecedented is of course no basis for an in principle objection to its inclusion; and

d. PLA is right to be concerned that:

- (i) a commitment that a final plan (e.g. the CSIP) should "accord with" its outline version (the oCSIP) does not mean that all of the provisions in the outline version will appear in the final version. Moreover I understand that many of the commitments in the oCSIP will be subject to a Cable Burial Risk Assessment ("CBRA") for which a meaningful one cannot be submitted to the Examination into the DCO because of a pending geotechnical survey campaign and so there is uncertainty on whether the applicant can deliver these commitments. Therefore, the mechanism to review and comment on the final CSIP including the CBRA is of great importance;
- (ii) the extent to which the PLA would have any involvement in the approval process / any subsequent amendments of any final plan is, however, unclear. Given the importance of the issues to the proper functioning and sustainable growth of the PoL it seems to me to be entirely reasonable for the PLA to want to approve the CBRA and plans before they are submitted to the MMO. As set out above, there can be no in principle objection to this being required.



- (iii) there is currently no positive obligation dealing with what happens if the 22m below Chart Datum is not met. The fact that a criminal offence may have been committed is not of itself an answer to this problem. Securing an equivalent to the remediation provisions contained in the Five Estuaries PPs would be.
  - (iv) there is currently no certainty in relation to control over non-licensable activities, e.g. survey work ahead of any construction works in the DWRs. Such activities could adversely affect the PoL for the reasons the PLA states.
  - (v) the PLA needs to have notice as to who has the benefit of the DCO;
  - (vi) the PLA needs to be provided with copies of the as-built plans;
  - (vii) not including PPs that effectively replicate those contained in the current draft of the Five Estuaries Project would undermine the effectiveness of those PPs.
- e. It follows from the above that in Leading Counsel's view the Applicant's suggestion that the PLA is acting unreasonably, and that by extension it would be unreasonable for the Examining Authority to recommend / the Secretary of State to require the PPs that the PLA is seeking, is manifestly misconceived.

8.4 The PLA's requested form of protective provisions is appended at Appendix 3.

## **Appendix 1**

### **The PLA's mark up of the Schedule 9 Deemed Marine Licence for Transmission Assets**

## SCHEDULE 9

## Article 36

### DEEMED MARINE LICENCE UNDER THE 2009 ACT – TRANSMISSION ASSETS

#### PART 1

#### LICENSED MARINE ACTIVITIES

1

(1) In this licence—

“the 2004 Act” means the Energy Act 2004<sup>1</sup>;

“the 2008 Act” means the Planning Act 2008<sup>2</sup>;

“the 2009 Act” means the Marine and Coastal Access Act 2009<sup>3</sup>;

“the 2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017<sup>4</sup>;

“aids to navigation management plan” means the aids to navigation management plan to be submitted to the MMO under condition 22(1)(i) of this licence;

**"Areas of Interest" means any part of those areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan;**

“authorised deposits” means the substances and articles specified in paragraph 4 of this licence;

“authorised development” means Work Nos. 2, 3, 4A and 4B as described in paragraph 3 of this licence or any stage of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LIDAR buoys, wave buoys and guard buoys;

“cable circuits” means a number of electrical conductors necessary to transmit electricity between two points, comprising one or more conductors which may be bundled as one cable or take the form of separate cables, and in either case the circuit may include one or more auxiliary cables for the purpose of control, monitoring, protection or general communication;

“cable crossings” means a crossing of existing cables, pipelines or other existing infrastructure by cable circuits authorised by this Order together with cable protection;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses, split pipe system, and/or rock placement (including material used for cable crossings);

“cable protection replenishment” means the restoration to a former level or condition of cable protection lost by natural seabed processes or human activity;

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction surveys and monitoring approved under this marine licence and the activities set out in paragraph 2(e), and “commenced” and “commencement” must be construed accordingly;

“commissioning” means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;

---

<sup>1</sup> 2004 c. 20.

<sup>2</sup> 2008 c. 29.

<sup>3</sup> 2009 c. 23.

<sup>4</sup> S.I. 2017/13.

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation – Safeguarding, St George’s House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY and any successor body to its functions;

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

“Deep Water Route Cable Installation Area (Future Dredging Depths) Plan” means the document certified as such by the Secretary of State under article 41 (certification of plans, etc.) for the purposes of this Order;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“dropped object procedure form” means the MMO notification proforma with reference MLDIR1 for reporting the loss or dumping of synthetic materials and other refuse at sea or any other format advised in writing by the MMO;

“emergency response co-operation plan” means the plan approved by the MCA containing the arrangements for liaison between the undertaker and HM Coastguard in the event of an emergency response;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 Part 4 (marine licensing) of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 41 (certification of plans and documents, etc.);

“habitats of principal importance” means a habitat designated as being of principal importance in accordance with section 41 (biodiversity lists and action (England)) of the Natural Environment and Rural Communities Act 2006<sup>5</sup>;

“HHA” means the Harwich Haven Authority;

“IHO S44ed5 Order 1a” means order 1a from the fifth edition of the International Hydrographic Organisation’s Standards for Hydrographic Surveys as updated or amended from time to time;

“jacket foundation” means a lattice type structure constructed of steel and additional equipment such as, J-tubes, corrosion protection systems and access platforms attached to the seabed;

“JNCC” means the Joint Nature Conservation Committee;

“Kingfisher bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“Kingfisher Information Service” means the information service from non-departmental government body Seafish;

“licensed activities” means the activities specified in Part 1 of this licence;

“LGPL” means London Gateway Port Limited (company number 04341592) as harbour authority for the London Gateway Port, pursuant to the London Gateway Port Harbour Empowerment Order 2008(b);

“local harbour authorities” means the PLA, HHA, and LGPL;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection) to the extent assessed in the environmental statement, and “maintenance” must be construed accordingly;

---

<sup>5</sup> 2006 c. 16.

**b** S.I 2008/1261

“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;

“marine noise registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;

“MCA” means the Maritime and Coastguard Agency;

“MGN654” means “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes, as may be updated or amended from time to time;

“MHWS” or “mean high water springs” means the highest level which spring tides reach on average over a period of time;

“monopile foundation” means a steel pile, driven and/or drilled into the seabed and associated equipment including J-tubes, corrosion protection systems and access platforms and equipment;

“offshore converter platform” means a structure, authorised by the deemed marine licence in Schedule 10 to the Order, above MHWS and attached to the seabed by means of a foundation, with equipment to convert three-phase HVAC power generated by the wind turbine generators into HVDC power;

“the offshore Order limits plan” means the plan certified as the offshore Order limits plan by the Secretary of State for the purposes of the Order under article 41 (certification of plans and documents, etc.);

“offshore platform” means the offshore substation platform(s) authorised by this licence and/or the offshore converter platform;

“Offshore Renewables Protocol for Reporting Archaeological Discoveries” means the Offshore Renewables Protocol for Reporting Archaeological Discoveries, the Crown Estate (2014), Protocol for Archaeological Discoveries: Offshore Renewables Projects, Salisbury, Wessex Archaeology as amended, updated or superseded from time to time;

“offshore substation platform” means a structure above MHWS and attached to the seabed by means of a foundation, with one or more decks, whether open or fully clad, accommodating electrical power transformers, switchgear, instrumentation, protection and control systems, and other associated equipment and facilities to enable the transmission of electronic communications and for electricity to be collected at, and exported from, the platform;

“operation” means the undertaking of the licensed activities which are not part of the construction, commissioning or decommissioning of the authorised development;

“Order” means the North Falls Offshore Wind Farm Order 202[ ];

“the Order limits” means the limits shown on the works plans within which the authorised development may be carried out, the grid coordinates for the area seaward of MHWS are set out in paragraph 5 of Part 1 of this licence;

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“outline navigation and installation plan” means the document certified as the outline navigation and installation plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“outline offshore in-principle monitoring plan” means the document certified as the outline offshore in-principle monitoring plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“outline offshore written scheme of investigation” means the document certified as the outline offshore written scheme of investigation by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“outline sediment disposal management plan” means the document certified as the outline sediment disposal management plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“outline site integrity plan for the southern north sea special area of conservation” means the document certified as the outline site integrity plan for the southern north sea special area of conservation by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“outline vessel traffic monitoring plan” means the document certified as the outline vessel traffic monitoring plan by the Secretary of State for the purposes of this Order under article 41 (certification of plans and documents, etc.);

“pin piled jacket” means a jacket attached to the seabed using pin piles;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure jacket foundations;

“platform interconnector cable” means one or more electricity cables connecting offshore platforms to each other;

“PLA” means the Port of London Authority;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed by use of protective aprons, mattresses, or rock and gravel placement;

“SNCB” means the statutory nature conservation body being the appropriate nature conservation body as defined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017<sup>6</sup> or its equivalent in the 2017 Regulations;

“statutory historic body” means Historic England or its successor in function;

“suction caisson (or bucket)” means a steel cylindrical structure attached to the legs of a jacket foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“suction caisson jacket” means a jacket attached to the seabed using suction caissons (typically one per leg);

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“UK Standard Marking Schedule for Offshore Installations” means the Standard Marking Schedule for Offshore Installations published by the Department of Energy & Climate Change with reference DECC 04/11.

“undertaker” means, subject to article 5 (benefit of the Order), North Falls Offshore Wind Farm Limited (company number 12435947);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel,

---

<sup>6</sup> S.I. 2017/1012.

a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“working day” means a day which is not a weekend, bank holiday or public holiday in England; and

“works plans (offshore)” means the plan or plans certified as the works plans (offshore) by the Secretary of State for the purposes of the Order under article 41 (certification of plans and documents, etc.).

- (2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.
- (3) A reference in this licence to a work identified by the number of the work is to be construed as a reference to the work of that number given in paragraph 3 of this licence.
- (4) Unless otherwise indicated—
  - (a) all times are taken to be Greenwich Mean Time;
  - (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.
- (5) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—
  - (a) Civil Aviation Authority  
Aviation House  
Beehive Ring Road  
Crawley  
West Sussex  
RH6 0YR
  - (b) Historic England  
East of England Regional Office  
Brooklands  
24 Brooklands Avenue  
Cambridge  
CB2 8BU
  - (c) Marine Management Organisation  
Marine Licensing Team  
Lancaster House Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;
  - (d) Marine Management Organisation (Local Office)  
Pakefield Road  
Lowestoft  
NR33 0HT

- Tel: 0208 026 0654
- (e) Maritime and Coastguard Agency  
Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2433;
- (f) Ministry of Defence (as represented by Defence Infrastructure Organisation  
Safeguarding)  
St George's House  
153  
DIO Head Office  
DMS Whittington  
Lichfield  
Staffordshire  
WS14 9PY;
- (g) Natural England  
Guildbourne House  
Chatsworth Road  
Worthing  
BN11 1LD  
Tel: 0300 060 4911;
- (h) Trinity House  
Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;
- (i) The United Kingdom Hydrographic Office  
Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900.
- (j) Port of London Authority  
London River House  
Royal Pier Road  
Gravesend



Kent  
DA12 2BG  
Tel: 01474 562200

- (6) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this licence is [marine.consents@marinemanagement.org.uk](mailto:marine.consents@marinemanagement.org.uk), or where contact to the Local Office if the MMO is required, [harwich@marinemanagement.org.uk](mailto:harwich@marinemanagement.org.uk).
- (7) Unless otherwise advised in writing by the MMO, the Marine Case Management System (“MCMS”) must be used for all licence returns or applications to vary this licence. The MCMS address is: <https://marinelicensing.marinemanagement.org.uk/>.

#### Details of licensed marine activities

- 2** Subject to the licence conditions in Part 2, this licence authorises the undertaker (and any agent or contractor acting on its behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—
- (a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and in Work Nos. 2 to 4A of up to 6,109,638 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation and excavation of drilling pits for trenchless installation techniques;
  - (b) the construction of works in or over the sea, and or on or under the seabed;
  - (c) dredging for the purposes of seabed preparation for foundation works, preparation for construction vessels and/or electrical circuit works;
  - (d) boulder clearance works by displacement ploughing or subsea grab technique or any other equivalent method;
  - (e) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
  - (f) removal of static fishing equipment;
  - (g) wet storage; and
  - (h) site preparation works.
- 3** Such activities described in paragraph 2 are authorised in relation to the construction, maintenance and operation of—

*Work No. 2*— up to two offshore substation platforms each fixed to the seabed by one of the following foundation types: monopile, multi-leg pin pile jacket or multi-leg suction bucket jacket and a platform interconnector cable including one or more cable crossings.

*Work No. 3*— up to two cable circuits between Work No. 2 and Work No. 4A, including one or more cable crossings;

*Work No. 4A*—up to two cable circuits and associated ducting between Work No. 3 and Work No. 4B including up to three drilling exit pits for trenchless installation techniques, one or more cable crossings and a temporary work area for vessels to carry out anchoring and positioning.

*Work No. 4B*—landfall connection works comprising up to two cable circuits and associated ducting between Work No. 4A and Work No. 4C, including trenchless installation technique works.

In connection with such Works Nos. 2, 3 4A, and 4B and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act 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 and the provisions of this licence, including—

- (a) scour protection around the foundations of the offshore substation platforms;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses;
- (c) the removal of material from the seabed required for the construction of Work Nos. 2, 3 and 4A;
- (d) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised development and buoys.

**4** The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic, synthetic and rubber;
- (f) material extracted from the seabed within the offshore Order limits during construction drilling or seabed preparation for foundation works, vessels and cable installation preparation works and excavation of drilling pits for trenchless installation techniques;
- (g) anchors and weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and
- (h) marine coatings, other chemicals and timber.

**5** The grid coordinates within which that part of the authorised development comprising Work Nos. 2, 3 and 4A must be located are specified below and more particularly on the offshore Order limits and grid coordinates plan—

<i>(1)</i> <i>Point ID</i>	<i>(2)</i> <i>Latitude (WGS84 (DDM))</i>	<i>(3)</i> <i>Longitude (WGS84 (DDM))</i>
1	51° 49.15653'N	01° 14.19781'E
2	51° 48.89411'N	01° 16.00324'E
3	51° 48.93931'N	01° 20.16189'E
4	51° 51.14871'N	01° 26.78016'E
5	51° 52.50692'N	01° 27.14152'E
6	51° 52.57065'N	01° 27.16916'E
7	51° 52.64883'N	01° 27.22273'E
8	51° 52.72182'N	01° 27.29646'E
9	51° 52.78924'N	01° 27.39211'E
10	51° 52.86734'N	01° 27.55868'E
11	51° 53.26911'N	01° 29.04967'E
12	51° 53.29595'N	01° 29.19064'E
13	51° 53.30653'N	01° 29.39203'E
14	51° 53.28761'N	01° 29.59449'E
15	51° 52.70790'N	01° 31.99872'E

16	51° 52.63952'N	01° 32.20092'E
17	51° 52.47783'N	01° 32.62017'E
18	51° 52.44756'N	01° 32.68431'E
19	51° 52.40237'N	01° 32.74776'E
20	51° 51.05315'N	01° 34.25159'E
21	51° 50.81073'N	01° 37.13538'E
22	51° 50.96701'N	01° 38.26250'E
23	51° 51.10934'N	01° 38.88062'E
24	51° 51.46878'N	01° 40.28054'E
25	51° 51.48276'N	01° 40.47097'E
26	51° 51.47070'N	01° 40.63503'E
27	51° 51.43842'N	01° 40.78925'E
28	51° 51.37801'N	01° 40.94765'E
29	51° 51.28360'N	01° 41.08521'E
30	51° 48.92805'N	01° 43.48196'E
31	51° 48.81263'N	01° 43.54037'E
32	51° 47.56548'N	01° 43.88635'E
33	51° 47.50920'N	01° 43.94405'E
34	51° 47.47326'N	01° 44.01182'E
35	51° 47.31551'N	01° 44.55852'E
36	51° 46.18399'N	01° 51.52207'E
36	51° 46.18399'N	01° 51.52207'E
37	51° 46.45215'N	01° 51.46739'E
38	51° 47.79417'N	01° 56.0602'E
39	51° 45.96006'N	01° 54.98406'E
40	51° 44.20008'N	01° 56.16270'E
41	51° 43.43466'N	01° 58.08954'E
42	51° 44.92260'N	02° 02.79174'E
43	51° 44.20590'N	02° 02.65992'E
44	51° 44.16756'N	02° 02.36766'E
45	51° 43.89822'N	02° 01.62702'E
46	51° 43.70418'N	02° 01.18500'E
47	51° 43.46172'N	02° 00.54066'E
48	51° 42.90816'N	01° 59.73738'E
49	51° 42.25464'N	01° 58.18482'E
50	51° 41.80842'N	01° 58.22082'E
51	51° 38.66118'N	01° 54.67986'E
52	51° 37.76189'N	01° 52.32853'E

53	51° 39.03140'N	01° 52.10085'E
54	51° 40.08359'N	01° 52.71647'E
55	51° 40.32461'N	01° 52.55921'E
56	51° 40.41888'N	01° 52.66356'E
57	51° 40.36970'N	01° 52.53295'E
58	51° 40.36967'N	01° 52.52982'E
59	51° 40.80925'N	01° 52.24298'E
60	51° 41.18441'N	01° 51.71421'E
61	51° 41.78502'N	01° 51.60623'E
62	51° 45.61162'N	01° 51.61163'E
62	51° 45.61162'N	01° 51.61163'E
63	51° 46.80531'N	01° 44.27081'E
64	51° 47.02029'N	01° 43.53214'E
65	51° 47.14620'N	01° 43.29432'E
66	51° 47.35775'N	01° 43.07473'E
67	51° 48.70770'N	01° 42.68329'E
68	51° 50.92504'N	01° 40.42289'E
69	51° 50.60854'N	01° 39.20429'E
70	51° 50.44922'N	01° 38.51020'E
71	51° 50.26732'N	01° 37.16414'E
72	51° 50.53831'N	01° 33.91006'E
73	51° 50.55473'N	01° 33.82809'E
74	51° 50.58713'N	01° 33.73900'E
75	51° 50.63161'N	01° 33.66473'E
76	51° 52.05000'N	01° 32.08189'E
77	51° 52.22165'N	01° 31.61943'E
78	51° 52.76395'N	01° 29.36475'E
79	51° 52.4014'N	01° 27.99607'E
80	51° 50.89889'N	01° 27.59335'E
81	51° 50.83063'N	01° 27.54393'E
82	51° 50.76639'N	01° 27.45303'E
83	51° 48.42854'N	01° 20.46655'E
84	51° 48.41280'N	01° 20.40213'E
85	51° 48.40234'N	01° 20.31730'E
86	51° 48.33800'N	01° 14.52722'E
87	51° 48.87115'N	01° 13.61544'E
88	51° 48.98239'N	01° 13.82661'E
89	51° 48.98187'N	01° 13.82982'E

90	51° 49.04064'N	01° 13.94325'E
91	51° 49.03475'N	01° 13.95772'E
92	51° 49.09068'N	01° 14.07320'E
93	51° 49.09716'N	01° 14.07885'E

### General provisions

- 6 This marine licence remains in force until the authorised development has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes) of the 2004 Act, and the completion of such programme has been confirmed by the Secretary of State in writing.
- 7 The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this marine licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).
- 8 With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.
- 9 Any amendments to or variations from the approved details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially greater environmental effects from those assessed in the environmental statement.

## PART 2 CONDITIONS

### Design parameters

10

- (1) The dimensions of any offshore substation platform forming part of the authorised development (including cranes and helideck) must not exceed—
  - (a) 61.68 metres in height when measured from MHWS;
  - (b) 60 metres in length; and
  - (c) 2,400 m<sup>2</sup> topside area.
- (2) Offshore substation platform foundation structures forming part of the authorised development must be one of either monopile foundation, multi-leg pin pile jacket foundation or multi-leg suction bucket jacket foundation.
- (3) No offshore substation platform—
  - (a) jacket foundation employing pin piles forming part of the authorised development may—
  - (b) have a pin pile diameter of greater than 3.5 metres; and
  - (c) employ more than 12 pin piles per jacket foundation; and
  - (d) monopile foundation forming part of the authorised development may not have a diameter greater than 17 metres.
- (4) Any part of the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude dredging:

(a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;

(b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and

(c) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum.

- (5) The undertaker must not carry out wet storage or relocate any boulders or archaeological finds to or within the three areas referred to in sub paragraph (4).

## 11

- (1) The total number of offshore platforms constructed under this licence and the licence granted under Schedule 10 to the Order must not exceed two.
- (2) The total permanent seabed footprint area for offshore platform foundations must not exceed—
  - (a) 5,890 square metres excluding scour protection; and
  - (b) 166,715 square metres including scour protection.
- (3) The total volume of scour protection material for the offshore platform foundations is 50,316 cubic metres.
- (4) The total volume of drill arisings under this licence and the licence granted under Schedule 10 must not exceed 11,451 cubic metres

- 12 The total length of the cable circuits in Work Nos. 2, 3 and 4A, and the area and volume of their cable protection (including cable crossings) must not exceed the following—

(1) Work No.	(2) Parameter	(3) Value
Work No. 2	Maximum total length	20 km
	Maximum protection area	24,000 m <sup>2</sup>
	Maximum protection volume	14,000 m <sup>3</sup>
Work Nos. 3 and 4A	Maximum total length	125.4 km
	Maximum protection area	75,240 m <sup>2</sup>
	Maximum protection volume	43,890 m <sup>3</sup>

## Maintenance of the authorised development

## 13

- (1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provide otherwise.
- (2) Maintenance works include but are not limited to—
  - (a) repair, maintenance, refurbishment and replacement of offshore electrical components;
  - (b) painting and applying other coatings;
  - (c) bird waste and marine growth removal;
  - (d) cable remedial burial;
  - (e) cable repairs and replacement;
  - (f) cable protection replenishment;
  - (g) access ladder and boat landing replacement;

- (h) replacement of offshore platform anodes; and
  - (i) J-tube repair/replacement.
- (3) In undertaking activities under paragraphs 2(a), 2(d), 2(e) and 2(f), other than in areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable 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% unless agreed with the MMO in writing.
- (4) An operations and maintenance plan substantially in accordance with the outline offshore operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB and the PLA at least six months prior to the commencement of operations. All operation and maintenance activities shall be carried out in accordance with the approved operations and maintenance plan and the approved cable specification and installation plan.

#### **Vessels under the undertaker's control**

##### **14**

- (1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals which must be in accordance with the outline project environmental management plan.
- (2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

#### **Extension of time periods**

- 15 Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

#### **Notifications and inspections**

##### **16**

- (1) The undertaker must ensure that a copy of this marine licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (a) all agents and contractors notified to the MMO in accordance with condition 25; and
  - (b) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 25;
- (2) Only those persons and vessels notified to the MMO in accordance with condition 25 are permitted to carry out the licensed activities.
- (3) The documents referred to in paragraph (1) must be available for inspection at the following locations—
  - (a) the undertaker's registered address;
  - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
  - (c) on board each vessel and at the office of any offshore operations managers with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The undertaker must ensure that a copy of this marine licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to

carry on any licensed activity set out in condition 25(3), and that a copy of this marine licence is held on board any such vessel.

- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised development.
- (6) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities and within five days of the completion of the licensed activity.
- (7) The undertaker must inform the Kingfisher Information Service, by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk), of details regarding the vessel routes, timings and locations relating to the construction of the authorised development or relevant stage—
  - (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher bulletin and offshore hazard awareness data; and
  - (b) as soon as reasonably practicable, and in any event no later than 24 hours after completion of construction of all offshore activities, confirmation of notification must be provided to the MMO in writing within five days.
- (8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised development or any relevant stage advising of the start date of the relevant Work No. and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA, the PLA and UK Hydrographic Office within five days of issue.
- (9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and the notices must be supplemented with VHF radio broadcasts agreed with the MCA in accordance with the project environmental management plan approved under deemed marine licence condition 22(1)(d) and monitoring plan approved under condition 22(1)(f). Copies of all local notifications must be provided to the MMO, the PLA and UK Hydrographic Office within five days of issue, save for in the case of a notice relating to operations and maintenance, which must be provided within 24 hours of issue.
- (10) The undertaker must notify the UK Hydrographic Office of the commencement (within 14 days), progress and completion of construction (within 14 days) of the licenced activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send a copy of such notifications to the MMO, the PLA and MCA within five days of the notification.
- (11) In case of damage to, or destruction or decay of, the authorised development seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MMO Local Office, the MCA, Trinity House, the Kingfisher Information Service the PLA and the UK Hydrographic Office.
- (12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, the MCA, Trinity House, the PLA and the UK Hydrographic Office within five days.
- (13) The undertaker must notify the MMO in writing a minimum of five days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity. Such a notification must include proposed timings and a description of proposed methodologies and a copy of such notification shall be provided to the PLA.



- (14) The undertaker must ensure that the MMO, the MMO Local Office, local mariners, local fishermen's organisations and the Source Data Receipt Team at the UK Hydrographic Office, Taunton, Somerset, TA1 2DN (sdr@ukho.gov.uk) and the PLA are notified within five days of completion of each instance of cable repair, replacement or protection replenishment activity.

#### **Aids to navigation**

**17**

- (1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised development seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.
- (2) The undertaker must during the period from the start of construction of the authorised development to completion of decommissioning of the authorised development seaward of MHWS keep Trinity House and the MMO and the PLA informed in writing of progress of the authorised development seaward of MHWS including the following—
- (a) notice of commencement of construction of the authorised development within 24 hours of commencement having occurred;
  - (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
  - (c) notice within five days of completion of construction of the authorised development.
- (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 aids to navigation management plan agreed pursuant to condition 22(1)(i) using the reporting system provided by Trinity House.
- (4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised development seaward of MHWS notify Trinity House and the MMO in writing of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.
- (5) In the event that the provisions of condition 16(12) 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.
- (6) Any jack up barges or vessels utilised during the licensed activities, when jacked up, must exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.

#### **Colouring of structures**

- 18** Except as otherwise required by Trinity House, the undertaker must colour all offshore substation platform structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House.

#### **Aviation safety**

**19**

- (1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by The Air Navigation Order 2016<sup>7</sup> and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority. Lighting installed specifically to meet

---

<sup>7</sup> S.I. 2016/765.

Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed in writing with the Ministry of Defence.

- (2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

- (a) the date of the commencement of the licensed activities;
- (b) the date any offshore substation platforms are to be installed;
- (c) the maximum height of any construction equipment or vessels to be used;
- (d) the maximum heights of offshore substation platforms to be constructed (including any antennae);
- (e) the latitude and longitude of each offshore substation platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph of this condition and of the completion of the construction of the authorised development. Copies of notifications must be provided to the MMO.

### **Chemicals, drilling and debris**

#### **20**

- (1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised development must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002<sup>8</sup> (as amended) as maintained by the Centre for Environment, Fisheries and Aquaculture Science.
- (2) 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.
- (3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.
- (4) 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 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.
- (5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, vessels or cables and drilling mud is disposed of within the Order limits seaward of MHWS.
- (6) The undertaker must ensure that any rock material used in the construction of the authorised development is from a recognised source, free from contaminants and containing minimal fines.
- (7) In the event that any rock material used in the construction of the authorised development is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office in writing within 48 hours of becoming aware of it and if the MMO, in consultation with the MCA and Trinity House, reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it at its own expense.
- (8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing

---

<sup>8</sup> S.I. 2002/1355.

and washing areas should be contained to prevent run off entering the marine environment through the freeing ports.

- (9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported in writing to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 22(1)(d)(i).

- (10) Regarding incidents of dropped objects—

(a) Debris or dropped objects within the Order limits which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (add number), and the UK Hydrographic Office email: [navwarnings@btconnect.com](mailto:navwarnings@btconnect.com).

(b) All dropped objects, including those in (a), within the Order limits must be reported to the MMO using the dropped object procedure form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO.

(c) On receipt of notification or 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..

## **Force majeure**

### **21**

- (1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened (an “unauthorised deposit”), full details of the circumstances of the deposit must be notified to the MMO in the manner provided in condition 20(10) within 48 hours.
- (2) Any unauthorised deposit must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

## **Pre-construction plans and documentation**

### **22**

- (1) The licensed activities for each stage of construction of the authorised development must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, with, where relevant, Trinity House, the MCA, UK Hydrographic Office, relevant SNCB and (in relation to the cable specification and installation plan, the navigation and installation plan and the sediment disposal management plan (under sub-paragraphs (h), (n) and (o)) only) the local harbour authorities —
- (a) A design plan at a scale of between 1:25,000 and 1:50,000, or in such other format as may be appropriate, including detailed representation on the most suitably scaled chart, to ensure conformity with the description of Work Nos. 2, 3 and 4A and compliance with conditions 10, 11, 12 and 13, which shows for the relevant stage—
- (i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each offshore substation platform, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions discovered post approval under this condition and choice of foundation types for all offshore platforms;

- (ii) the dimensions of each offshore substation platform to be installed, including any antennae;
  - (iii) the length, **depth** and arrangement of cables comprising Work Nos. 2, 3 and 4A **including cable crossings**;
  - (iv) the type and dimensions of all foundations for the offshore substation platforms;
  - (v) the proposed layout of all offshore substation platforms including any exclusion zones identified under paragraph (2)(d); and
  - (vi) any exclusion zones or micro-siting requirements identified in any mitigation plan pursuant to paragraph (2)(d) or relating to any habitats of principal importance identified as part of surveys undertaken in accordance with condition 26;
- (b) a construction programme for the relevant stage, unless otherwise agreed in writing with the MMO, to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant delivery of materials and installation works; and
  - (iii) an indicative written construction programme for all offshore substation platforms and cable comprised in the Work Nos. 2, 3 and 4A and the works in paragraph 2 (insofar as not shown in paragraph (ii) above);
- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details for the relevant stage of—
  - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to sub-paragraph (g);
  - (ii) contractors; and
  - (iii) associated ancillary works;
- (d) a project environmental management plan covering the period of construction for the relevant stage to include details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with and report any spills and collision incidents of the authorised development in relation to all activities carried out;
  - (ii) a chemical risk register to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised; and
  - (iv) waste management and disposal arrangements;
- (e) a scour protection plan for the relevant stage providing details of the need, type, sources, quantity and installation methods for scour protection, which must be updated and resubmitted in writing for approval if changes to it are proposed following cable laying operations;
- (f) details of proposed pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 26, 27 and 28;

- (g) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol for that stage, in accordance with the outline marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, including details of soft start procedures with specified duration periods following current best practice as advised by the relevant SNCB;
- (h) a cable specification and installation plan for the relevant stage, to include—
  - (i) technical specification of offshore cables (including fibre optic cable) below MHWS within that stage, including a desk-based assessment of attenuation of electromagnetic field strengths, shielding and cable burial depth in accordance with good industry practice;
  - (ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 10(4);
  - (iii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum (excluding the areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced) and, in the event that any area of cable protection exceeding 5% of navigable depth is identified (in areas other than those shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan), details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;
  - (iv) proposals for the volume, depth and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes, actual depths and areas post construction; and
  - (v) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;
- (i) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, the MCA and the CAA to include details of how the undertaker will comply with the provisions of condition 17 relating to that stage for the lifetime of the authorised development;
- (j) an offshore monitoring plan for the relevant stage which accords with the principles set out in the outline offshore in-principle monitoring plan.
- (k) 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;
- (l) a vessel traffic monitoring plan for the relevant stage which accords with the principles set out in the outline vessel traffic monitoring plan;
- (m) in the event that driven or part-driven pile foundations are proposed to be used, a site integrity plan for the southern north sea special area of conservation which accords with the principles set out in the outline site integrity plan for the southern north sea special area of conservation;

- (n) a navigation and installation plan for the relevant stage **which is in substantial accordance** with the principles set out in the outline navigation and installation plan; and
  - (o) a sediment disposal management plan for the relevant stage which accords with the principles set out in the outline sediment disposal management plan.
- (2) Subject to paragraph (2), the licensed activities or any relevant stage of those activities must not commence unless no later than six months prior to the commencement a marine written scheme of archaeological investigation for the stage in construction has been submitted to and approved by the MMO in writing, in accordance with the outline offshore written scheme of investigation, and in accordance with industry good practice, in consultation with the statutory historic body to include—
- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (b) a method statement for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (c) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within six months of any survey being completed;
  - (d) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones prior to construction;
  - (e) monitoring of archaeological exclusion zones during and post construction, including provision of a report on such monitoring;
  - (f) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS ('online access to the index of archaeological investigations') form with a digital copy of the report within six months of completion of construction of the authorised development, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
  - (g) a reporting and recording protocol, designed in reference to the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by the Crown Estate and reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised development; and
  - (h) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a method statement produced under the written scheme of investigation specific to the relevant pre-construction activities (which must accord with the details set out in the outline offshore written scheme of investigation) which has been submitted to and approved by the MMO in consultation with the statutory historic body.
- (4) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive monopile foundations must not exceed 6,000kJ and the hammer energy used to drive or part-drive pin pile foundations must not exceed 3,000kJ.
- (5) No more than two main vessels may be engaged at any time in activities related to piling for the licenced activities. There will only be a maximum installation of three monopiles foundations or six pin piles within a 24-hour period.

- (6) The undertaker must, before submitting any pre-construction plans and documentation required under this condition, provide a copy of the plans and documentation to any person to whom part of the benefit of the Order applying seaward of MHWS has been transferred or leased pursuant to article 5 (benefit of the order) of the Order.
- (7) A person receiving the plans and documents under paragraph (6) must provide any comments on the plans and documentation to the undertaker within 14 days of receipt.
- (8) The undertaker must participate in liaison meetings as requested from time to time by the MMO in writing in advance and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence issued under this Order (including as varied or transferred).

## 23

- (1) Except where otherwise stated or agreed in writing with the MMO, each programme, statement, plan, protocol or scheme required to be approved under condition 22 (save for that required under condition 22(1)(f)) must be submitted for approval at least six months prior to the intended commencement of the relevant stage of the licensed activities.
- (2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 22(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—
  - (a) at least six months prior to the first survey of the relevant stage, detail of any pre-construction surveys and an outline of all proposed monitoring;
  - (b) at least six months prior to construction, detail on construction monitoring; and
  - (c) at least six months prior to commissioning, detail of postconstruction (and operational) monitoring.
- (3) The MMO must determine an application for approval made under condition 22 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker such agreement not to be unreasonably withheld or delayed.
- (4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 22, unless otherwise agreed in writing by the MMO (provided that the MMO has consulted with any party that it was required to consult with in relation to a relevant plan, protocol, statement, scheme or details pursuant to condition 22).
- (5) The plans, protocols, statements, schemes and details submitted under condition 22 must ensure that any residual effects fall within the scope of those predicted in the environmental statement.

### Offshore safety management

## 24

No stage of the authorised development may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and adequately addressed all MCA recommendations as appropriate to the authorised development contained within MGN654.

### Reporting of engaged agents, contractors and vessels

## 25

- (1) The undertaker must provide the following information to the MMO—
  - (a) the name, company number, address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten

- working days prior to such agent or contractor commencing any licensed activity;  
and
  - (b) each week during the construction of the authorised development a list of the vessels currently and to be used in relation to the licensed activities, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.
- (2) Any changes to the supplied details must be notified to the MMO in writing, as far as practicable, prior to the agent, contractor or vessel engaging in the licensed activities.
  - (3) The undertaker must notify the MMO in writing not less than 24 hours prior to the commencement of major component exchanges, ladder replacements or cable related works—
    - (a) any agents, contractors or subcontractors that will carry out such works; and
    - (b) any vessel proposed to be used for such works, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

### **Pre-construction monitoring and surveys**

**26**

- (1) The undertaker must in discharging condition 22(1)(f) for construction submit a monitoring plan in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB and the PLA, which must contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report and—
  - (a) the survey proposals must be in accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement; and
  - (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the preconstruction position, with any limitations, and must make clear what postconstruction comparison is intended and the justification for this being required.
- (2) Subject to receipt from the undertaker of specific proposals pursuant to this condition, the pre-construction survey proposals must comprise, in outline—
  - (a) a full sea floor coverage swath–bathymetry survey of the Order limits and a buffer outside, that meets the requirements of IHO S44ed5 Order 1a, to—
    - (i) determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the outline offshore in-principle monitoring plan;
    - (ii) inform future navigation risk assessments as part of the cable specification and installation plan; and
    - (iii) inform the identification of any archaeological exclusion zone and post consent monitoring of any such archaeological exclusion zone;
  - (b) a bathymetric survey that meets the requirements of IHO S44ed5 Order 1a of the area within the Order Limits within which it is proposed to carry out construction works.
- (3) The pre-construction survey(s) carried out pursuant to paragraphs (2)(a) and (2)(b) must fulfil the requirements of MGN654 and its supporting 'Hydrographic Guidelines for Offshore Renewable Energy Developer' (as relevant).



- (4) The undertaker must carry out the surveys specified within the approved monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB and the PLA.
- (5) Following completion of a survey carried out pursuant to this condition and prior to construction of the relevant stage, the undertaker must provide a report and full density data of the survey outcomes to the MMO, the relevant SNCB, the MCA, the PLA and UK Hydrographic Office as relevant.

### **Construction monitoring**

**27**

- (1) The undertaker must, in discharging condition 22(1)(f) in respect of construction monitoring, submit a construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB and the PLA, which must include details of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify the objectives for each survey and explain how the survey will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.
- (2) If the plan or plans submitted to the MMO under this condition contain survey proposals, the construction monitoring plan must include, in outline—
  - (a) vessel traffic monitoring by automatic identification system for the duration of the construction period, with provision for a report to be submitted to the MMO, Trinity House, and the MCA annually during the construction period for the authorised development; and
  - (b) where piled foundations are to be employed, unless otherwise agreed by the MMO in writing, details of proposed monitoring of the noise generated by the installation of the first four piled foundations of each piled foundation type to be constructed collectively under this licence and the deemed marine licences granted under Schedules 8 and 10 of the Order.
- (3) If, in the reasonable opinion of the MMO in consultation with the SNCB and the PLA the monitoring carried out pursuant to condition 27(2)(b) above 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.
- (4) The undertaker must carry out the surveys specified within the approved construction monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB and the PLA.

### **Post-construction monitoring**

**28**

- (1) The undertaker must, in discharging condition 22(1)(f) in respect of post-construction monitoring, submit a post-construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB and the PLA including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify objectives for each survey and explain how the survey will assist in either informing a

useful and valid comparison with the preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

- (2) If the plan or plans submitted to the MMO under this condition contain survey proposals, the post-construction survey plan or plans must include, in outline—
  - (a) details of a survey to determine any change in the location, extent and composition of any biogenic or geogenic reef feature identified in the pre-construction survey in the parts of the offshore Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
  - (b) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones. The data will be analysed by an accredited archaeologist as defined in the marine written scheme of archaeological investigation required under condition 22(2); and
  - (c) vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of the authorised development, unless otherwise agreed in writing by the MMO, with provision for a report to be submitted annually to the MMO, Trinity House, and the MCA.
- (3) The undertaker must carry out the surveys specified within the approved post-construction monitoring plan or plans in accordance with that plan or plans and provide the agreed reports in the agreed format, unless otherwise agreed in writing with the MMO in consultation with the relevant SNCB and the PLA.

**29** Within 12 weeks of completion of any cable repair or replacement works, the undertaker must undertake a post installation survey along the section of cable that has undergone repair or replacement to demonstrate the successful burial of the cable, and submit a report to the MMO in writing on its findings and provide a copy to the PLA.

New condition 30.

#### **Pre-construction, Construction and Post-construction monitoring and the local harbour authorities**

- (1) The undertaker must consult the local harbour authorities on the proposed activities and programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring and related reporting within the Areas of Interest no less than 20 business days before such survey work is programmed to commence. The undertaker must have regard to any request made by the local harbour authorities for reasonable amendment to the proposed activities or programme, which request must be made to the undertaker within 5 business days of receipt of the details of the proposed activities and programme.
- (2) The undertaker must notify the local harbour authorities of the final planned programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring within the Areas of Interest no less than 5 business days before such survey work is programmed to begin.
- (3) The undertaker must consult the local harbour authorities on any application for marine licensing for the clearance of unexploded ordnance within or which may affect the Areas of Interest before such applications are submitted to the MMO. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed application, which request must be made to the undertaker within 10 business days of receipt of the details of the proposed application.
- (4) The undertaker must notify the local harbour authorities of the final programme for any clearance of unexploded ordnance to be undertaken within the Areas of Interest no less than 20 business days before such disposal is programmed to begin.

#### **Timing of monitoring report**

**30** Any monitoring report compiled in accordance with the monitoring plans provided under conditions 26, 27 and 28 must be provided to the relevant body no later than four months following receipt by

the undertaker of the results of monitoring to which it relates, unless otherwise agreed with the relevant body in writing.

### **Reporting of impact pile driving**

**31**

- (1) In the event that driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the marine noise registry—
  - (a) no less than six months prior to the commencement of each stage of construction of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the marine noise registry's Forward Look requirements;
  - (b) within two weeks after commencement of each stage of construction of the licensed activities, information on the location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
  - (c) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the marine noise registry's Close Out requirements by 7 April for winter season October – March inclusive and 7 October for summer season April – September inclusive; or within 12 weeks of completion of impact pile driving, whichever is earlier; and
- (2) The undertaker must notify the MMO in writing of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.
- (3) For the purpose of this condition, "Forward Look" and "Close Out" mean the requirements as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) as amended, updated or superseded from time to time.

### **Maintenance reporting**

**32**

- (1) An annual maintenance report must be submitted to the MMO in writing within one month following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.
- (2) The report must provide a record of the licensed activities as set out in condition 13 during the preceding year, the timing of activities and methodologies used.
- (3) Every fifth year, the undertaker must submit to the MMO in writing, within one month of that date, a consolidated maintenance report, which will—
  - (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with paragraph (1) of this condition;
  - (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

### **Stages of construction**

**33**

- (1) The licenced activities must not be commenced until a written scheme setting out the stages of construction of the authorised development seaward of MHWS has been submitted to and approved by the MMO in writing.
- (2) The scheme must be implemented as approved.
- (3) The written scheme referred to in paragraph (1) must be submitted to the MMO in writing four months prior to the planned commencement of the licenced activities.

## Completion of construction

34

- (1) The undertaker must submit a close out report in writing to the MMO and the relevant SNCB within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the final number of installed offshore substation platforms.
- (2) Following completion of construction, no further construction activities can be undertaken under this licence.

35 The undertaker must submit a close out report to the MCA, Trinity House and the UK Hydrographic Office within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following—

- (a) the final number of installed offshore substation platforms;
- (b) a plan of the layout of installed offshore substation platforms; and
- (c) latitude and longitude coordinates of the centre point of the location of each offshore substation platform, provided as Geographical Information System data referenced to WGS84 datum.

## Deployment of cable protection

36 Any cable protection authorised under this licence must be deployed within 10 years from the date the Order comes into force unless otherwise agreed by the MMO in writing.

## Remediation

36. (1) Where, following the installation or maintenance of cables forming Work No. 3, located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan

- (a) the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer;
- (b) the area shown shaded in pink and labelled Trinity – Trinity DW Buffer;
- (c) the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer;

it is identified by the undertaker (who shall notify the MMO and the local harbour authorities as soon as reasonably practicable of this fact and in any event within 2 business days) or, following inspection by a local harbour authority (and the same is notified to the undertaker as soon as reasonably practicable), that the level of any cable is such that the condition 10(4) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of condition 10(4) are no longer being achieved, then, unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker is required to carry out remediation works as specified in the cable specification and installation plan subject to sub paragraph(2) below.

(2) Unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker will carry out the following arrangements for the carrying out the remediation works:

- (a) the undertaker will re-bury the cable to the required specification to achieve the requirements of condition 10(4); and
- (b) following the completion of the works in sub-paragraph (2)(a), if it is identified by the undertaker or the local harbour authorities (following inspection) that the required specification is not achieved, then the undertaker will remove the cable without unreasonable delay and thereafter relay a new cable pursuant to an updated cable specification and installation plan approved by the MMO and the local harbour authorities which updated cable specification and installation plan specifically identifies and addresses why the previous cable burial was not successful, how that has been addressed and what measures are to be used in relaying the cable to prevent the failure reoccurring.

(3) The steps in this paragraph shall be repeated until the requirement in condition 10(4) is achieved or the cable is permanently removed from the areas referred to in paragraph 36(1).

## Placement of cable and cable protection proximate to Margate and Long Sands SAC

37.

- (1) Unless otherwise agreed in writing by the MMO in consultation with Natural England, no cable circuits comprised in Work No. 3 or cable protection measures shall be installed within the area defined by the coordinates as specified in the table in sub-paragraph (3).
- (2) If agreement with the MMO is obtained pursuant to sub-paragraph (1), the undertaker must install any cable circuits or cable protection measures in accordance with the details approved under sub-paragraph (1).
- (3) The coordinates referred to in sub-paragraph (1) are specified in the table—

	(1) Point	(2) Latitude	(3) Longitude
1		51° 48.36144N	001° 42.77159E
2		51° 48.37295N	001° 42.76875E
3		51° 48.41343N	001° 42.75876E
4		51° 48.66988N	001° 42.69547E
5		51° 48.67455N	001° 42.69432E
6		51° 48.67936N	001° 42.69320E
7		51° 48.69382N	001° 42.69006E
8		51° 48.70770N	001° 42.68329E
9		51° 49.05786N	001° 42.32663E
10		51° 49.07583N	001° 42.30832E
11		51° 49.21771N	001° 42.16377E
12		51° 49.68296N	001° 41.68965E
13		51° 49.72103N	001° 41.65085E
14		51° 50.89144N	001° 40.45719E
15		51° 50.92384N	001° 40.42412E
16		51° 50.90057N	001° 40.57444E
17		51° 50.73624N	001° 40.74293E
18		51° 50.71250N	001° 40.76728E
19		51° 48.88430N	001° 42.64015E
20		51° 48.75971N	001° 42.76767E
21		51° 48.75135N	001° 42.77623E
22		51° 48.74687N	001° 42.78049E
23		51° 48.74223N	001° 42.78428E
24		51° 48.73745N	001° 42.78759E
25		51° 48.73255N	001° 42.79039E
26		51° 48.72755N	001° 42.79267E
27		51° 48.72246N	001° 42.79444E
28		51° 48.71751N	001° 42.79563E
29		51° 48.71659N	001° 42.79576E

30	51° 48.71252N	001° 42.79634E
31	51° 48.70751N	001° 42.79654E
32	51° 48.70246N	001° 42.79632E
33	51° 48.69742N	001° 42.79576E
34	51° 48.61790N	001° 42.78554E
35	51° 48.58695N	001° 42.78167E
36	51° 48.57932N	001° 42.78155E
37	51° 48.51798N	001° 42.78057E
38	51° 48.49747N	001° 42.78025E
39	51° 48.49537N	001° 42.78021E
40	51° 48.44900N	001° 42.77947E
41	51° 48.37184N	001° 42.77338E
42	51° 48.36482N	001° 42.77282E
43	51° 48.36309N	001° 42.77269E
44	51° 48.36148N	001° 42.77256E
45	51° 48.35849N	001° 42.77232E
46	51° 48.35989N	001° 42.77198E

## **Appendix 2**

### **Legal Opinion of Robert Walton KC**

**North Falls Offshore Windfarm  
Draft Development Consent Order**

**Opinion**

**Robert Walton KC**

**20<sup>th</sup> June 2025**

**Introduction**

1. The Port of London Authority ('PLA') is seeking protective provisions ('PPs') in the draft North Falls Offshore Windfarm Development Consent Order ('the DCO') on the basis that they are necessary to ensure the efficient functioning and sustainable growth of the Port of London ('PoL'). London Gateway Port Ltd ('LGPL') is also seeking PPs, on the same basis, in relation to London Gateway Port ('LGP').
2. The Applicant for the DCO, North Falls Offshore Windfarm Ltd ('NFOWL'), is currently resisting the inclusion of the PPs sought by the PLA and LGPL. It has raised what it considers to be some 'in principle' objections to the inclusion of the PPs, as well as some more detailed points of objection, and is arguing that the PLA and LGPL are acting unreasonably in seeking them<sup>1</sup>.
3. I am instructed by Gowling WLG (UK) LLP to advise the PLA on these issues.

**Advice**

4. I respond first to NFOWL's 'in principle' objections to the inclusion of PPs.
5. **Issue (i): No works proposed within PLA's jurisdictional limits<sup>2</sup>.** In my view NFOWL's contention that the DCO cannot include PPs in favour of the PLA because the DCO would not authorise any works within the PLA's jurisdictional limits is misconceived. I note that NFOWL does not cite any legal authority in support of its position. In my view there is no

---

<sup>1</sup> Rep 4-044: *Applicant's Response to the Ports' Request For Protective Provisions*, e.g. para. 1.3

<sup>2</sup> Rep 4-044 para. 3.1.2ff



in principle reason why PPs cannot be included in relation to works authorised by a DCO in respect of land outside a statutory undertaker's territorial jurisdiction. I note that both the PLA and LGPL have given examples of where this has occurred, including where PPs have been given to the PLA in relation to works proposed outside of its jurisdiction<sup>3</sup>. It is obvious that activities / works undertaken in the Sunk and Trinity Deep Water Routes ('DWRs') could adversely affect the PLA's statutory undertaking in terms of the efficient operation and sustainable growth of the PoL. Further, and in any event, the PLA's responsibilities are not confined solely to its jurisdictional limits<sup>4</sup>. It follows in my view that there can be no in principle objection to the inclusion of PPs simply on the basis that the DCO would not authorise any works within the PLA's jurisdictional limits.

6. **Issue (ii): The PLA has no right to dredge the DWRs<sup>5</sup>.** NFOWL rightly points out that the PLA would have to apply for a Marine Licence ('ML') if it wanted to dredge the DWRs. But, with respect, that misses the point. The point is that activities / works undertaken in the DWRs could harm the efficient functioning / sustainable growth of the PoL, and so it is obviously critical that such activities and works are properly regulated. It is no doubt in recognition of this that NFOWL has proposed revised wording in the DCO to the effect that the works authorised by the DCO must not compromise the ability to dredge the DWRs to 22m below Chart Datum<sup>6</sup>. The fact that the PLA would need to apply for a licence to carry out any dredging work is irrelevant to that proposition. It follows in my view that there can be no in principle objection to the use of PPs simply on the basis that the PLA would need a licence if it wanted to dredge the DWRs.
7. **Issue (iii): the MMO is the appropriate regulator<sup>7</sup>.** NFOWL rightly point out that the Marine Management Organisation ('MMO') would determine any application for a ML. But again with respect, that also misses the point. The point here is whether it is appropriate for the PLA to have any sort of input into the ML process including, for example, approving any draft application before it is submitted to the MMO. Again, there is no reason in principle why this should not be secured by way of PPs, as is demonstrated by the fact

---

<sup>3</sup> See e.g. Rep 5-112 Q.9.4.2; and Schedule 8 to the London Gateway Port Harbour Empowerment Order 2008; see also e.g. Rep 5-096 at para. 15; and Part 7 of Schedule 4 to the Associated British Ports (Immingham Eastern Ro-Ro Terminal) Development Consent Order 2024

<sup>4</sup> See Rep 2-056 at para. 2.14

<sup>5</sup> Rep 4-044 at para. 3.1.6ff

<sup>6</sup> Rep 4-044 at para. 3.3.4

<sup>7</sup> Rep 4-044 at para 3.2ff

that similar provisions have been included in other DCOs, see e.g. those referenced in the deadline 5 submissions made by the PLA and LGPL<sup>8</sup>.

8. **Issue (iv): Precedent<sup>9</sup>.** NFOWL says that there are no analogous circumstances in which PPs have been required. It is not clear precisely what NFOWL means by ‘analogous circumstances’ but as set out above I note that both the PLA and LGPL have provided examples of DCOs which do have PPs in relation to works undertaken outside the relevant statutory undertaker’s jurisdictional limits, and requiring the undertaker’s pre-submission approval of applications being made to third party regulators. But even if there were not directly analogous DCOs, the fact that a proposed PP might be unprecedented is of course no basis for an in principle objection to its inclusion.

9. I turn now to the NFOWL’s more detailed objections.

10. As set out in Rep 4-004<sup>10</sup>, NFOWL is now proposing:

- that the DCO should include a requirement that Work No. 3 has to be installed and maintained at a level that would not prevent dredging to a level of 22 metres below Chart Datum in the Sunk and Trinity DWRs;
- that this is to be included as a commitment in the Outline Cable Specification and Installation Plan (oCSIP);
- condition 22 of the deemed ML will require the final Cable Specification and Installation Plan (CSIP) will have to accord with the oCSIP;
- avoidance of disposal of dredged sediment within the DWRs or within proximity to the Sunk Pilot Boarding Area is to be included as a commitment in the Outline Sediment Disposal Management Plan (oSDMP);
- condition 22 of the deemed MML will require the final Sediment Disposal Management Plan (SDMP) to accord with the oSDMP;
- protocols to ensure North Falls vessels / activities within a defined ‘Area of Interest’ will minimise impact of third-party vessels, including concurrent Restricted Ability to Manoeuvre vessels will be included in the outline Navigation and Installation Plan (oNIP); and

---

<sup>8</sup> See e.g. Rep 5-096 at para. 24

<sup>9</sup> Rep 4-044 at para. 3.4

<sup>10</sup> See para. 2.2

- that there will be a commitment within the oCSIP to use all reasonable endeavours to avoid the use of cable protection in the vicinity of the Sunk pilot boarding area so as to not reduce the navigable depth in this area.

11. In my view these new measures could reasonably be said to go some way towards addressing some of the PLA's concerns. I note in this regard that LGPL has said that the inclusion in the DCO of the requirement that Work No. 3 has to be installed and maintained at a level that would not prevent dredging to a level of 22 metres below Chart Datum in the DWRs would address their concern that the DCO must contain an absolute parameter to ensure that the Applicant's cables or their protection are not laid at too shallow a depth as to preclude the use of the DWRs by certain vessels or interfere with LGPL's statutory undertaking or its powers to dredge under the London Gateway Port Harbour Empowerment Order 2008<sup>11</sup>.

12. However, in my view it is entirely reasonable for the PLA to maintain the position it has set out in its deadline 5 submissions. I note also the similar points made by LGPL, who conclude that, taken as a whole, NFOWL's proposed measures are of little value<sup>12</sup> and do not address its concerns that there should be no adverse impact on the operation of LGP. In particular (and without rehearsing all the arguments put forward) it seems to me that the PLA is right to be concerned on the basis that:

- (i) a commitment that a final plan (e.g. the CSIP) should "accord with" its outline version (the oCSIP) does not mean that all of the provisions in the outline version will appear in the final version. Moreover, I understand that a number of the commitments in the oCSIP will be subject to a Cable Burial Risk Assessment ("CBRA") but that the NFOWL is unable to submit a CBRA to the Examination because of a pending geotechnical survey campaign. It follows in my view that the PLA is right to be concerned as to whether the commitments in the OcSIP will form part of the CSIP as ultimately approved;
- (ii) the extent to which the PLA would have any involvement in the approval process / any subsequent amendments of any final plan is, however, unclear. Given the importance of the issues to the proper functioning and sustainable growth of the

---

<sup>11</sup> Rep 5-096 at para. 8

<sup>12</sup> Rep 5-096 at para. 9

PoL it seems to me to be entirely reasonable for the PLA to want to approve the relevant plans before they are submitted to the MMO. As set out above, there can be no in principle objection to this being required;

- (iii) there is currently no positive obligation dealing with what happens if the 22m below Chart Datum requirement is not met. The fact that a criminal offence may have been committed is not of itself a full answer to this problem. Securing an equivalent to the remediation provisions contained in the Five Estuaries Project PPs would be;
- (iv) there is currently no certainty in relation to control over non-licensable activities, e.g. survey work ahead of any construction works in the DWRs. Such activities could adversely affect the PoL for the reasons the PLA states;
- (v) the PLA needs to have notice as to who has the benefit of the DCO;
- (vi) the PLA needs to be provided with copies of the as-built plans;
- (vii) not including PPs that effectively replicate those contained in the current draft of the Five Estuaries Project would undermine the effectiveness of those PPs.

13. I should stress that I am not saying that all of these points can only be dealt with by PPs.

As both the PLA and LGPL have said, it may for example be possible to tighten up the wording of some of the measures NFOWL has proposed. But in my view it is entirely reasonable for the PLA to pursue PPs here, in line with the approach taken on the Fives Estuaries Project. This is not only to ensure the issues raised above are adequately addressed, but also to ensure consistency of decision making with the Fives Estuaries Project. It follows from all of this that in my view NFOWL's suggestion that the PLA is acting unreasonably, and that by extension it would be unreasonable for the Examining Authority to recommend / the SS to require the PPs that the PLA is seeking, is manifestly misconceived.

**Robert Walton KC**

**20<sup>th</sup> June 2025**

### **Appendix 3**

#### **Form of Protective Provisions sought by the PLA**

## PART [ ]

### For the protection of the Port of London Authority (offshore)

#### 1. In this Part

"Areas of Interest" means any part of those areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan;

"cable specification and installation plan" means the cable specification and installation plan to be approved under condition 21(1)(h) of the deemed marine licence for the transmission assets in Schedule 9;

"construction" includes execution, placing, altering, replacing, relaying, removal, renewal works of maintenance and decommissioning, in its application to a specified work which includes or comprises any operation, means the carrying out of that operation, and "construct" and "constructed" are to be construed accordingly;

"commencement" for the purpose of this Part [ ] of Schedule 14 means the carrying out of any authorised development and survey and monitoring activities;

"Deep Water Routes" mean the Sunk and Trinity deep water routes;

"installation" has the same meaning as construction and 'installed' is to be construed accordingly

"operation and maintenance plan" means the operation and maintenance plan to be approved under condition 12(4) of the deemed marine licence for the transmission assets in Schedule 9;

"maintain" has the same meaning as in Article 2 save that it includes monitoring within the Areas of Interest and maintenance shall be construed accordingly;

"navigation and installation plan" means the navigation and installation plan to be approved under condition 22(1)(n) of the deemed marine licence for the transmission assets in Schedule 9;

"sediment disposal management plan" means the sediment disposal management plan to be approved under condition 22(1)(o) of the deemed marine licence for the transmission assets in Schedule 9;"

"specified work" means Work No. 3 and any other part of the offshore works forming part of the authorised development including associated development and ancillary works (and which for this purpose includes the maintenance and decommissioning of any part of the authorised development); and

"PLA" means the Port of London Authority.

#### Application

2. The following provisions, unless otherwise agreed in writing between the undertaker and the PLA, have effect, for the protection of the PLA in relation to the construction, operation and maintenance of any specified work.

#### Approvals and notice

3.(1) The undertaker will obtain the approval in writing of the PLA on:

- (a) any cable specification and installation plan (in so far as that plan relates to any specified work within or which may affect the Areas of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 22(1) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application; and
- (b) any navigation and installation plan (in so far as that plan relates to any specified work within or which may affect the Areas of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 22(1) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application; and
- (c) any sediment disposal management plan (in so far as that plan relates to any specified work within or which may affect the Areas of Interest) before any application for approval of that plan may be

submitted by the undertaker in compliance with condition 22(1) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application; and

- (d) any operation and maintenance plan (in so far as that plan relates to any specified work within or which may affect the Areas of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 12(4) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application.

(2) The undertaker will consult the PLA on the proposed activities and programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring and related reporting within the Areas of Interest no less than 20 business days before such survey work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed activities or programme, which request must be made to the undertaker within 5 business days of receipt of the details of the proposed activities and programme.

(3) The undertaker must notify the PLA of the final planned programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring within the Areas of Interest no less than 5 business days before such survey work is programmed to begin.

(4) The undertaker will consult the PLA on any application for marine licensing for the clearance of unexploded ordnance within or which may affect the Areas of Interest before such applications are submitted to the MMO. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed application, which request must be made to the undertaker within 10 business days of receipt of the details of the proposed application.

(5) The undertaker must notify the PLA of the final programme for any clearance of unexploded ordnance to be undertaken within the Areas of Interest no less than 20 business days before such disposal is programmed to begin.

(6) The undertaker will consult the PLA on the activities and programme for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within or may affect the Areas of Interest no less than 20 business days before such specified work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the activities or programme.

(7) The undertaker must notify the PLA of the final method statement and programme for any for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within or may affect the Areas of Interest no less than 5 business days before such work is programmed to begin.

### **Cable Specification and Installation Plan**

4. The cable specification and installation plan referred to in paragraph 3 must be informed by a cable burial risk assessment and set out for Work No.3, and in so far as it applies to the Deep Water Routes demonstrate compliance with requirement 2(3):

- (a) The proposed cable installation methods and measures for management of construction risks;
- (b) Additional cable burial depths required or any other forms of cable protection proposed including type, volume and locations;
- (c) During construction of the cables and cable protection in the Areas of Interest arrangements for the consultation of the PLA in a timely manner, on such matters regarding those works as the PLA may reasonably request including arrangements for providing the PLA with a point of contact for continuing liaison and co-ordination throughout the construction of these works.
- (d) The proposed programme of work for cable installation and arrangements for notification of any changes to the programme to the PLA;
- (e) The programme and methodologies for monitoring and the arrangements for the results of these surveys or other construction evidence being made available to the PLA within 10 business days of the undertaker receiving reports of the survey results or evidence to demonstrate compliance with the depths referred to in requirement 2(3);
- (f) Methods and timescales to rectify any issues which may compromise the depth referred to in requirement 2(3).

- (g) A process (subject to paragraphs 7 and 8) and timescales for cable re-installation should the level that the cable is such that the requirements of requirement 2(3) cannot be achieved over the lifetime of the authorised development.

### **Monitoring**

5. If following the results of any geophysical surveys carried out using multi-beam echo sounder survey (MBES), it is confirmed that cable exposure or reduction in navigable depth has occurred within the Areas of Interest, the undertaker will notify the PLA as soon as reasonably practicable and in any event no later than 2 business days after the undertaker confirms any exposure has occurred.

6. The PLA must notify the undertaker of any potential cable exposure that is identified by the PLA in the relation to the Areas of Interest as soon as reasonably practicable.

### **Remediation**

7. Where, following the installation of cables forming Work No. 3 in relation to the Areas of Interest it is identified by the undertaker (who shall notify the PLA as soon as reasonably practicable of this fact and in any event within 2 days) or, following inspection by the PLA, it is identified by the PLA (and the same is notified to the undertaker as soon as reasonably practicable), that the level of cable is such that the requirements of requirement 2(3) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of requirement 2(3) are no longer being achieved, then, unless otherwise agreed in writing with the PLA, the undertaker is required to carry out remediation works as specified in the cable specification and installation plan subject to paragraph (8) in relation to the Deep Water Routes.

8. Unless otherwise agreed in writing with the PLA, the undertaker will carry out the following arrangements for the carrying out the remediation works:

(1) the undertaker will re-bury the cables to the required specification to achieve the requirements of requirement 2(3); and

(2) Following the completion of the works in sub-paragraph (1), if it is identified by the undertaker or the PLA (following inspection) that the required specification is not achieved, then the undertaker will remove the cable without unreasonable delay and thereafter relay a new cable pursuant to an updated cable specification and installation plan, which updated cable specification and installation plan specifically identifies and addresses why the previous cable burial was not successful, how that has been addressed and what measures are to be used in relaying the cable to prevent the failure reoccurring.

(3) The updated cable specification and installation plan required under sub-paragraph (2) will be submitted to the PLA for approval under paragraph 3, and the provisions of both this paragraph and paragraph 4 will apply to that updated cable specification and installation plan.

(4) The steps in this paragraph shall be repeated until the requirements in requirement 2(3) is achieved or the cable is permanently removed from the Areas of Interest.

### **Provision of as built details**

9. As soon as reasonably practicable following the completion of the installation of cables forming Work No. 3 and after any maintenance of the same, the undertaker must provide (on a strictly confidential basis) to the PLA as built drawings of Work No. 3 in a form and scale to be agreed between the undertaker and the PLA to show the position, depth and any cable protection installed as part of Work No 3 in relation to the Deep Water Routes provided that the PLA must not disclose (without the written consent of the undertaker) any information that has been provided by the undertaker to the PLA on a confidential basis or which is marked as commercially sensitive and must hold such information on a confidential basis only, except that the PLA may provide the information to contractors and agents acting on its behalf (including but not limited to contractors engaged to carry out dredging operations) provided that such agents and contractors are required by the PLA to treat such information as confidential.



## **Indemnity**

**10.** The undertaker will pay to the PLA its proper and reasonable legal costs, professional fees and disbursements incurred in connection with reviewing the details submitted to the PLA pursuant to this Part [ ] of Schedule 14.

(2) The undertaker is responsible for and must make good to the PLA all financial costs, charges, damages losses or expenses which may be incurred reasonably or suffered by the PLA by reason of—

- (a) the construction or operation of Work no. 3, any specified work or its failure or a failure to adhere to the requirements of this Part [ ] of Schedule 14;
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged on the construction or operation of a specified work or Work no. 3 or with any failure, and the undertaker must indemnify the PLA from and against all claims and demands arising out of or in connection with a specified work, Work no. 3 or any such failure, act or omission or any failure to adhere to the requirements of the this Part [ ] of Schedule 14.

(3) The fact that any act or thing may have been done—

- (a) by the PLA on behalf of the undertaker; or
- (b) by the undertaker, its employees, contractors or agents in accordance with plans or particulars submitted to or modifications or conditions specified by the PLA, or in a manner approved by the PLA, or under its supervision or the supervision of its duly authorised representative, does not (if it was done or required without negligence on the part of the PLA or its duly authorised representative, employee, contractor or agent) excuse the undertaker from liability under the provisions of this paragraph.

(4) The PLA must give the undertaker reasonable notice of any such claim or demand as is referred to in sub-paragraphs (1) and (2) and no settlement or compromise of it is to be made without the prior consent of the undertaker.

## **Transfer of the benefit**

11 The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 5 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 5, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.

## **Disputes**

12 Any dispute arising between the undertaker and the PLA under this Schedule is to be escalated in the first instance to senior representatives from the PLA and the undertaker, and the PLA and undertaker must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days, Where following escalation the dispute is not resolved, it is to be determined by arbitration as provided in article 42 (arbitration) of this Order.