



N O R T H F A L L S

Offshore Wind Farm

Without Prejudice Proposed DCO Requirement – Galloper Recommended Route

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1. INTRODUCTION

- 1.1. The Applicant submits the following proposed DCO requirement in respect of the Galloper recommended route (RR) on a without prejudice basis. The Applicant maintains its position as set out in its Position Statement [REP5-071] and considers that the requirement below should only be imposed in the event that the Secretary of State concludes that the Galloper RR is a 'recognised sea lane essential to international navigation' and that a requirement is necessary in order to grant development consent in terms that would avoid any risk of breach of any international obligations.
- 1.2. A DCO requirement is proposed instead of a DML condition on the basis that it is appropriate for the UK Government, acting through the relevant Secretary of State, to be responsible for ensuring the requirement is discharged in an appropriate manner compatible with the UK's international obligations.
- 1.3. The drafting of the DCO requirement proposed below is considered to be more precise and proportionate than the MCA's suggested condition wording set out in [REP4-080]. The Applicant urges the ExA and Secretary of State to consider very carefully not only the necessity for such a requirement but also the drafting of any requirement relating to the Galloper RR and to resist the temptation to default to the MCA's proposed wording. Drafting notes are included in footnotes to explain why certain language or drafting is preferred.
- 1.4. For clarity the Applicant is seeking a minor amendment to the wider "Sunk area traffic routeing scheme"¹ to remove the charted Galloper RR.

2. WITHOUT PREJUDICE DCO REQUIREMENT

Galloper recommended route

(1) Unless otherwise agreed by the Secretary of State in consultation with the MCA, the undertaker must not commence any part of Work No. 1 or Work No. 2² unless the NCSR³ has adopted a resolution recommending or approving the minor amendment to the "Sunk area traffic routeing scheme"¹ to remove the Galloper recommended route.

(2) Unless otherwise agreed by the Secretary of State in consultation with the MCA, the undertaker must not install any surface-piercing infrastructure

¹ Defined in circular COLREG.2/ Circ.58 Annex II as the SUNK area and northern approaches to the Thames estuary.

² The MCA condition refers to and restricts any "offshore construction activity" which is unnecessarily broad and imprecise. The restriction should control Works No. 1 and No.2 (the array area) as the other offshore works (e.g. export cables) would not interfere with the Galloper recommended route.

³ It is understood from the MCA submission [REP4-080] that any objections by IMO members would be considered at the NCSR sub-committee and if NCSR approval is forthcoming the Maritime Safety Committee is a "ratification" process. Therefore, there would be a high degree of confidence of removal by this stage and it is appropriate to allow some works to commence.

forming part of Work No. 1 or Work No. 2 until the MSC has adopted a resolution for or otherwise endorsed the minor amendment to the “Sunk area traffic routeing scheme” to remove the Galloper recommended route.

(3) Sub-paragraphs (1) and (2) are subject to sub-paragraphs (4), (5) and (6).

(4) If at any time the Secretary of State, in consultation with the MCA, approves a layout for Work Nos 1 and 2 which safeguards sufficient sea space to allow vessels to continue to safely navigate via the Galloper recommended route, the restrictions in sub-paragraphs (1) and (2) do not apply⁴.

(5) [Unless the Secretary of State directs otherwise, the restrictions contained in sub-paragraphs (1) and (2) cease to have effect on 30 November 2028.⁵]

(6) If the secretary of state’s agreement or approval is obtained pursuant to sub-paragraphs (1), (2) or (4) above, the undertaker must install any infrastructure in accordance with the terms and conditions of any such agreement or approval.

3. DEFINITIONS

“Galloper recommended route” means the recommended shipping routing measure included as part of the “Sunk area traffic routeing scheme” adopted by resolution of the International Maritime Organization during the 82nd session of the Maritime Safety Committee and recorded in circular COLREG.2/ Circ.58 Annex II., to enable ferry traffic sailing to and from the Port of Oostende an option to enter and leave the SUNK Outer Precautionary Area, and connecting the following geographical positions:

(54) 51° 44'.93N 001° 50'.93E

(55) 51° 41'.33N 002° 00'.03E”

“MSC” means the International Maritime Organization’s Maritime Safety Committee, or any successor body or committee of the International Maritime Organization performing an equivalent function;

“NCSR” means the International Maritime Organization’s Navigation, Communication and Search and Rescue sub-committee, or any successor body or committee of the International Maritime Organization performing an equivalent function;

⁴ While the Applicant does not consider it currently possible to identify a viable and feasible layout that avoids the Galloper recommended route, the possibility of doing so in future should not be precluded in the event that circumstances materially change.

⁵ If the Secretary of State concludes the Galloper recommended route is not a “recognised sea lane essential to international travel” but nevertheless considers it remains appropriate to impose a DCO requirement, a pragmatic approach would be to include a ‘sunset’ mechanism to ensure a back-stop point at which the restrictions fall away, so that the project is not delayed indefinitely. 30 November 2028 aligns with the MCA timetable in [REP2-046].



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