

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

NORTH FALLS OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER

PINS REFERENCE EN010119

**THE PLA'S COMMENTS ON THE APPLICANT'S
RESPONSE TO THE EXA'S PROPOSED
SCHEDULE OF CHANGES TO THE DDCO AND
THE DEADLINE 7 DDCO**

1 INTRODUCTION

- 1.1 This is a written submission made on behalf of the Port of London Authority (“**PLA**”) in respect of the Applicant's comments on the ExA's Proposed Schedule of Changes to the dDCO Deadline 6 submissions [**REP7-056**] and the dDCO submitted at Deadline 7 [**REP7-007**].
- 1.2 This written submission also provides the PLA's closing comments on the further changes required to the dDCO. In the main the further changes are changes which the ExA have suggested but the Applicant has either pushed back on or offered alternative drafting which is not acceptable to the PLA for the reasons stated in this submission.

COMMENTS ON EXA PROPOSED SCHEDULE OF CHANGES [REP7-056] AND DRAFT DEVELOPMENT CONSENT ORDER [REP7-007]

	EXA's Proposed Changes	ExA's Reasoning	Applicant Response	PLA's Response and Position re Further Changes
Articles				
Schedule 2 Requirements				
Requirement 2 (3)	<p>"(3) Any part of Work No. 3 and any associated development 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 or impede dredging:</p> <p>(a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;</p> <p>(b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and</p> <p>(c) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum.</p> <p>(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)."</p>	The ExA considers this change to be reasonable and necessary.	<p>The Applicant updated the draft DCO at Deadline 7 to include the amendment to (3) (see [Document ref: 6.1, (rev 8)]).</p> <p>The Applicant may not carry out wet storage or relocate boulders or archaeological finds to or within these areas as a result of the oCSIP [Document ref: 9.53, (rev 3)], which is secured by Condition 22(1)(h) of the DML in Schedule 9.</p> <p>It is not necessary nor reasonable to duplicate the same measure of control in two places.</p>	<p>The text for Requirement 2(3) in the dDCO [REP7-007] is agreed by the PLA and no further changes are required in respect of this proposed change. (NB since the ExA's Proposed Changes were published the Applicant submitted the Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan [REP6-055] and this introduced the Sunk Pilotage Diamond Buffer and altered the colouring used on the plan. The dDCO [REP7-007] accurately reflects the deadline 6 version of the plan and the wording at (a) to (d) is agreed)</p> <p>In relation to requirement 2(4) the ExA's suggested change should be incorporated.</p> <p>The Applicant's response is not valid. Whilst the Outline Cable Specification and Installation Plan [REP7-039] states that boulders and archaeological finds will not be relocated into the Deep Water Routes and the Sunk Pilotage Area and no wet storage shall be undertaken, this is a third hand commitment – the DML at Schedule 9 of the dDCO requires at condition 22(1)(h) that a cable specification and installation plan (CSIP) be submitted and approved by the MMO prior to each relevant stage of the authorised development. Whilst the CSIP must be "in accordance with the outline CSIP" this is much weaker than the Requirement 2(4) proposed by the ExA and gives the PLA no guarantee that the clear requirement not to relocate boulders or archaeological finds nor to undertake wet storage in the areas shown on Deep Water Route Cable Installation Area (Future Dredging Depths) Plan will in fact be secured, monitored and enforced by the MMO</p>
Schedule 8, 9 and 10 – Deemed Marine Licences (DMLs)				
Schedule 9 – Part 1 (1)	"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;	The ExA considers that consistency with the convention to provide definitions is necessary.	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).	Since the ExA's Proposed Changes were published the Applicant submitted the Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan [REP6-055] and this introduced the Sunk Pilotage Diamond Buffer and altered the colouring used on the plan. The dDCO [REP7-007] accurately reflects the deadline 6 version of the plan. Applicant's update acceptable to the PLA

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				and agreed no further changes to the dDCO required in respect of this proposed change.
Schedule 9 – Part 1 (5)	<p>(j) Port of London Authority London River House Royal Pier Road Gravesend 7 Kent DA12 2BG Tel: 01474 562200</p>	The ExA considers this change is necessary and for consistency with other organisations' contact details being included in the dDCO.	<p>The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).</p> <p>The Applicant has also updated the draft DCO with placeholders and invites the other local harbour authorities to provide their contact details for the purposes of the notification requirements under condition 16 and 17 of Schedule 9.</p>	<p>Update acceptable to the PLA. The number 7 should be removed from the PLA's address in line 5</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] welcomed this change</p>
Schedule 9 – Part 2, Condition 10	<p>New Requirement (as proposed to be amended for Schedule 2 Requirement 2 (3)) should be included in the DML Schedule 9 at condition 10 as sub- paragraphs (4) and (5).</p> <p>"(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 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. (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 paragraph (4)."</p>	The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.	<p>On (4) it is not considered necessary to include as a condition of the DMLs what is already a Requirement in the DCO.</p> <p>On (5) please see response in respect of "Requirement 2 (3)" above.</p>	<p>On (4) The ExA's suggested change should be incorporated subject to the updates outlined above to make the wording and colourings consistent with Requirement 2(3) of REP7-007. It is imperative that works the subject of the DML meet this requirement. Including the requirement as a condition of the DML means that the MMO do not overlook this requirement when approving other conditions and can secure, monitor and and enforce compliance with the requirement.</p> <p>On (5) the ExA's suggested change should be incorporated. It is imperative that works the subject of the DML meet this requirement. Including the requirement as a condition of the DML means that the MMO do not overlook this requirement when approving other conditions and can secure compliance with the requirement. As noted above leaving this matter to the oCSIP is weaker as it gives the PLA no guarantee that the clear requirement not to relocate boulders, archaeological finds nor to carry out wet storage within the defined areas will in fact be secured, monitored and enforced by the MMO.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.8) has no concerns with these inclusions.</p>
Schedule 9 – Part 2, Condition 13 (3)	"(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% Chart Datum unless agreed with the MMO and the MCA in writing."	(2)(d) - cable remedial burial is equally relevant to (2)(e) – cable repairs and replacement, and should therefore be referenced. The ExA considers this change to be reasonable.	The Applicant updated the draft DCO at Deadline 6 to include these amendments (see [REP6-005]).	Applicant's update at deadline 6 acceptable to the PLA (which included additional updates to reflect the colouring used in the Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan [REP6-055]) and agreed no further changes to the dDCO required in respect of this proposed change.

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				<p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.9) has no concerns with this inclusion.</p> <p>The PLA notes that there have been further updates to Condition 13(3) at deadline 7 removing reference to the Plan and its colouring and instead referring to the Areas of Interest. The PLA has no objection to these amendments</p>
Schedule 9 – Part 2, Condition 13(4),	13 (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, the MCA 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.	The ExA considers this change to be reasonable and necessary to ensure that the operations and maintenance would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority. The MCA have sought to be included as a consultee and to ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].	The Applicant has updated the draft DCO at Deadline 7 to include consultation of local harbour authorities in respect of the OOMP to the extent it relates to the relevant DWR areas (now referred to as Areas of Interest per PLA request) (see [Document ref: 6.1, (rev 8)]).	<p>The PLA has no objection to reference to the local harbour authorities generally.</p> <p>This condition is, however, envisaging a single plan which will therefore naturally include maintenance of works in the Areas of Interest. The caveat "to the extent that the plan relates to the Areas of Interest only" is not acceptable as there will be a single plan. The plan is not only going to relate to the Areas of Interest, nor are the maintenance activities necessarily location specific. There may also be maintenance works outside of the Areas of Interest which have the potential to affect the Areas of Interest.</p> <p>The dDCO should therefore be updated to either reflect the ExA's changes unchanged or to provide the following:</p> <p>(4) An operations and maintenance plan -in accordance with the outline offshore operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB, the MCA and (to the extent that the plan relates to the Areas of Interest only) the local harbour authorities at least six months prior to the commencement of operations. All operation and maintenance activities must be carried out in accordance with the approved operations and maintenance plan and the approved cable specification and installation plan.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.9) has no concerns with this inclusion.</p>
Schedule 9 – Part 2, Condition 16 (8) to (14),	(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	The ExA considers this change to be reasonable and necessary to ensure that the Port of London Authority are notified throughout the works to include in the case of damage to, destruction or decay of the authorised development, or cable exposure, which could have the	<p>The dDCO was updated at Deadline 6 [REP6-005] with new condition 16(15), which sees that PLA (as one of the local harbour authorities) are provided the notices under condition 16(12)-(14).</p> <p>The dDCO has, in response to the PLA's request [REP6-090], been updated at Deadline 7 (Document</p>	The Applicant's suggested drafting changes to sub-paragraph (15) of Condition 16 to achieve the ExA suggested changes in Condition 16 subparagraphs (8) to (14) does not work. The Applicant has revised Condition 16(15) to read:

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	<p>must be provided to the MMO, MCA, the PLA and UK Hydrographic Office within five days of issue.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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</p>	<p>potential to give rise to unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.</p>	<p>Reference 6.1, Rev 8) so that the relevant condition 16(15) of Schedule 9 requires notification of PLA (as one of the local harbour authorities) in respect of other notices required under condition 16(8)-(11) as requested, to the extent it relates to the DWR areas (now referred to as Areas of Interest per PLA request).</p>	<p>(15) In a case of any exposure of cables in the areas shown shaded orange, pink, green or blue on the Deep Water Route Cable Installation Area (Future Dredging Depths) PlanWhere any notice required by sub-paragraphs (8) to (14) above relates to any works or any part of the authorised development within the Areas of Interest, the undertaker must also send copies of the notices required by paragraphs (12), (13) and (14) any such notice to the local harbour authorities within five days of such notices.</p> <p>Sub-paragraphs (8) to (14) of Condition 16 are not all dealing with works The ExA recommended changes should, therefore, be incorporated unchanged or the PLA has no objection to the PLA references being updated to the Local Harbour Authorities.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.9) has no concerns with this inclusion.</p>

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	<p>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.</p> <p>(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.</p>			
Schedule 9 - Part 2, 17(2)	(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—...	The ExA considers this change to be reasonable.	The dDCO has, in response to the PLA's request [REP6-090], been updated at Deadline 7 (Document Reference 6.1, Rev 8) so that the relevant condition 17 of Schedule 9 requires keeping the PLA (as one of the local harbour authorities) informed to the extent development relates to the DWR areas, (now referred to as Areas of Interest at the request of PLA).	<p>Update acceptable to the PLA and agreed no further changes to the dDCO required in respect of this proposed change.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.9) has no concerns with this inclusion.</p>
Schedule 9 – Part 2, Condition 22(1) (a) (iii)	(iii) the length, depth and arrangement of cables comprising Work Nos. 2, 3 and 4A;, including cable crossings;	The ExA considers this change to be reasonable and in the interests of precision and enforceability.	<p>The Applicant considers these amendments are not necessary.</p> <p>The depth of the cables will be determined post consent via the cable burial risk assessment (CBRA).</p> <p>The cable crossings are covered in the oCSIP, which is secured in the DMLs.</p>	<p>The dDCO should be updated to reflect the ExA's changes.</p> <p>The changes relate to a pre commencement design plan and it is appropriate that the design plan details the target depth for the cable and any cable crossings so that the MMO is approving a design plan which coupled with the CBRA gives certainty that Requirement 2(3) is being met in the case of Work No 3 and any cable crossings.</p> <p>It is not appropriate to leave this element of design just to the CSIP or for the depth of the cables to be determined post consent</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.10) has no concerns with this inclusion.</p>
Schedule 9 – Part 2, Condition 22(1)(h) (ii), (iii) & (iv)	(ii) a detailed cable laying for the Order limits plan within that stage, incorporating a burial risk assessment encompassing the identification of any cable that exceeds 5% of navigable protection depth referenced to Chart Datum (excluding the areas shown shaded orange, or hatched pink on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced) and,	The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.	<p>The suggested changes (including those to 22(1)(a)(iii) above) are not considered to be necessary for the following reasons:</p> <ul style="list-style-type: none"> - Work No. 2 / 4A have no bearing on the PLA concerns relating to the Deep Water Routes; - The oCSIP (updated again at Deadline 7, (Document Reference 9.53, Rev 3)), which the 	<p>The Applicant provided no explanation for not including the proposed ExA change to Condition 22(1)(h) (ii). The dDCO should be updated to reflect the ExA's change.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.11) has no concerns with this inclusion.</p>

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	<p>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;</p> <p>(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 10(4);</p> <p>(iii) proposal for the volume and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes and areas post construction; and</p> <p>(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;</p> <p>(iv) 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;</p>		<p>final CSIP must accord with under Condition 22(1)(h), makes clear that details of cable crossings will be set out in the CSIP; and</p> <ul style="list-style-type: none"> - Depth of the cable will necessarily be informed by the post-consent Cable Burial Risk Assessment (CBRA). <p>In respect (iv), the request for 'depth' of cable protection (which is inaccurate as it would be the 'height' of it), and 'actual depths' of cable are both contained within the CSIP.</p> <p>In any case, the cable cannot be at a depth so as to reduce the depth to less than 22m/19m CD in the DWR areas of concern to the PLA, as secured by Requirement 2(3), and must be in accordance with the design parameters under condition 10 as a result of that condition 10.</p>	<p>The changes in (h)(iii) using the ExA changes and referring to the Areas of Interest have been incorporated in the dDCO [REP07-008] and the PLA is content with these changes subject to this sub-paragraph being renumbered to (iii) in the dDCO.</p> <p>RE Condition 22(1)(h)(iv) (paragraph (iii) in dDCO [REP07-007] this should be updated to reflect the ExA changes. the depth (or height) is relevant, the drafting suggests that only volume and area are important.</p> <p>Whilst Requirement 2(3) will apply to cable protection it is important that the MMO is able to be confident that this Requirement is being complied with to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.12) has no concerns with this inclusion.</p> <p>The Applicant has provided no comment on (v) nor have they included it in REP7-007. The dDCO should be updated to reflect the ExA's change.</p>

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	<p>(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</p> <p>(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;</p>			
Schedule 9 – Part 2, Condition 22 (1) (n)	(n) a navigation and installation plan for the relevant stage which accords is substantially in accordance with the principles set out in the outline navigation and installation plan; and	The ExA considers this change is reasonable to ensure that any stage of the works would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports	The Applicant updated the draft DCO at Deadline 7 to include these amendments (see [Document ref: 6.1, (rev 8)]).	<p>This change has <u>not</u> been made in dDCO [REP7-007] and the ExA change needs to be made.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.9) has concern with this inclusion of substantial. The PLA would wish the reference to substantial to remain.</p>
Schedule 9 - Part 2, 26(1)	(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—...	The ExA considers this change is both reasonable and necessary to ensure that pre-construction monitoring and surveys would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.	The Applicant has ensured that the PLA will be consulted with in respect of monitoring by including in the dDCO as updated at Deadline 7 (Document Reference 6.1, Rev 8) a new condition 37 (to fit numbering of DML) proposed by the PLA [REP6-090], see response below in respect of "Schedule 9 - Part 2, New Condition 30".	<p>This change is about the PLA being consulted on a specific plan the ExA change needs to be made to the dDCO so that the PLA can ensure that pre-construction monitoring and surveys would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.14) has no concerns with this inclusion.</p>
Schedule 9 - Part 2, 28(1), 28(3), 28(4) & 28(5)	(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	The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that post-construction monitoring would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London Authority.	The Applicant has ensured that the PLA will be consulted with in respect of monitoring by including in the dDCO as updated at Deadline 7 (Document Reference 6.1, Rev 8) a new condition 37 (to fit numbering of DML) proposed by the PLA [REP6-090], see response below in respect of "Schedule 9 - Part 2, New Condition 30".	<p>This change is about the PLA being consulted on a specific plan and specific surveys/monitoring and the ExA change needs to be made to the dDCO so that the PLA can ensure that post-construction monitoring and surveys would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Port of London.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.14) has no concerns with this inclusion with 28(1) and (3).</p>

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	<p>preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement.</p> <p>(3) The undertaker must conduct a swath bathymetric survey to IHO S44ed5 Order 1a of the installed export cable route and provide the data and survey report(s) to the MCA, the PLA and UKHO. The MMO should be notified once this has been done, with a copy of the Report of Survey also sent to the MMO.</p> <p>(4) 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.</p> <p>(5) 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.</p>			
Schedule 9 - Part 2, New Condition 30	<p>Pre-construction, Construction and Post-construction monitoring and the local harbour authorities</p> <p>(1) The undertaker must consult the local harbour authorities on the proposed activities and programme for any preconstruction 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.</p> <p>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</p>	<p>The ExA considers this change is both reasonable and necessary to ensure that monitoring would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.</p>	<p>The Applicant updated the draft DCO at Deadline 7 with this new condition (but numbered condition 37 to fit the DML provision numbering) (Document Reference 6.1, Rev 8).</p>	<p>The Applicant's update is agreed by the PLA and no further changes are required in respect of this proposed change.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] (paragraph 10.1.14) has queried the 20-day period. This condition is aimed at when the surveys are actually to be undertaken rather than the monitoring documents themselves. The MMO has also questioned the inclusion of paragraph 3 and 4 (paragraph 10.1.17) on the basis that unexploded ordnance is subject to a separate marine licence and therefore a full consultation will take place at the time of the marine licence application process. The important point for the PLA is that it is consulted and there are provisions in the protective provisions which could address this.</p>

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	<p>than 5 business days before such survey work is programmed to begin.</p> <p>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.</p> <p>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.</p>			
Schedule 9 - Part 2, New Condition 36.	<p>Remediation</p> <p>(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</p> <p>(a) the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer;</p> <p>(b) the area shown shaded in pink and labelled Trinity – Trinity DW Buffer;</p> <p>(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</p>	<p>The ExA considers this change is in the interests of precision and enforceability, and is both reasonable and necessary to ensure that remediation is effective and would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.</p>	<p>As the dDCO and relevant DML of Schedule 9 each limit the cable works and maintenance in respect of the DWR areas (referred to as 'Areas of Interest' at PLA request), a failure to adhere to such would require that the undertaker remediate the cable works to not be in breach of the licence or the DCO (committing a criminal offence).</p> <p>Moreover, the Applicant has committed to monitoring (including the new condition 37 (to fit current numbering) proposed by the PLA which sees that PLA would be consulted and kept informed) at each stage of development, to ensure that the cable remains in place as it should. As such, this new condition is a duplication of control and is not reasonable nor necessary.</p>	<p>The purpose of this condition is to put a process around such remediation to ensure that remediation is effective and would not give rise to any unacceptable temporary or permanent impacts on navigation to and from the Ports.</p> <p>The ExA's change should be incorporated into the dDCO.</p> <p>The PLA note that the MMO in its Deadline 7 Representation [REP7-080] suggest that this condition could be made simpler (see 10.1.18). The PLA would not support the simplicity suggested to Condition 36(1) as remediation is not just dealing with the initial burial but also maintenance. The MMO appear not to have an issue with the arrangements for carrying out the remediations works in Condition 36(2) nor 36(3).</p>

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	<p>and installation plan subject to subject to sub paragraph (2) below.</p> <p>(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:</p> <p>(a) the undertaker will re-bury the cable to the required specification to achieve the requirements of condition 10(4); and</p> <p>(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.</p> <p>(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).</p>			
Schedule 12 – Documents to be certified				
Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan (Rev 0) [REP4-043].	<p>PLA's amendments to Deep Water Route Plan [REP4-043] as described in PLA's [REP5-111] which includes a revised image showing additional areas to be included in green, namely:</p> <p>The majority of the green area will need to allow for dredging to -22m CD and the PLA could otherwise accept the 200m buffer to the south at -19m CD.</p>	The ExA considers this change to be reasonable.	<p>The Applicant updated the Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan at Deadline 6 [REP6-055] to make the area around the sunk pilot diamond (shown coloured blue on that plan) protected from having its depth reduced to any less than -22m by Work No. 3 (see Requirement 2(3) of dDCO [REP6-005]).</p> <p>This, in effect, gives the same protection as the proposal by PLA, as the area around the sunk pilot diamond extends further than the areas proposed by PLA (even if not using the colour green).</p>	The updated plan REP6-055 is agreed by the PLA.

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Outline Cable Specification and Installation Plan (OCSIP) [REP4-039]	At paragraph 31 in relation to the Deep Water Routes (DWR) the reference is to the cables being installed and maintained but in paragraph 32 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.	The ExA considers this change to be reasonable.	The Outline Cable Specification and Installation Plan has been updated at Deadline 7 (Document Ref: 9.53 (rev 3) to address this point.	This change has been made by the Applicant and paragraph 35 (was para 32) now reads Cables in DWR area Sunk B will be designed, installed, operated and maintained with a gradient of no more than 1:5 from Sunk A. No further changes are required in respect of this proposed change
Outline Sediment Management Plan [REP5-042]	Outline Sediment Management Plan [REP5-042] – is there inconsistency in use of 'export cable corridor' and 'offshore cable corridor'.	For example, in the Outline Sediment Management Plan [REP5-042], paragraph 4 refers to the export cable corridor (ECC), but Section 3.1 relates to the offshore cable corridor (OCC). The ExA considers that consistency is necessary.	The Applicant updated the Outline Sediment Disposal Management Plan at Deadline 6 [REP6-049] and this update was made.	The oSDMP now primarily refers to the export cable corridor (ECC) however there is one reference to the offshore cable corridor still in relation to 3.1 and as such the contents page and heading on page 12 both require an update
Installation Documents	Cable Specification and Installation Plan (Rev 1) [REP5-044] or any further updated document.	To allow future enforceability of scheme details if required.	The outline Cable Specification and Installation Plan is included in Schedule 12 Part 3 of the DCO.	The PLA agree that it is included.
Schedule 14 – Protective Provisions				
New	Add Protective Provisions for PLA [REP5- 112, Appendix 2]	The ExA considers this change to be reasonable and necessary to ensure that Work No 3 would not give rise to any unacceptable permanent or temporary impacts on navigation to and from the Port of London Authority and to ensure consistency with the Five Estuaries OWF Ltd draft DCO [REP8A-004].	<p>The Applicant's position remains that PPs are not necessary nor reasonable and if PPs are to be imposed, that should only be as an alternative (and not in addition to) the suite of other control measures already committed to and contained in the dDCO and DML and associated control plans.</p> <p>The Applicant has adequately addressed concerns of the PLA in appropriate alternative ways: by committing to not reduce depth more than the levels agreed with the PLA, and not impede or prevent dredging, in the Deep Water Route areas (Requirement 2(3)), by not reducing navigable depth at all in the DWR areas due to cable works or maintenance (Condition 13(4) and Condition 22(1)(h)(ii)), and by condition requiring that PLA are consulted</p> <p>with by the MMO in respect of all the mitigation plans activities that may affect PLA, (Condition 22(1)).</p> <p>Moreover, the Applicant has included in the dDCO submitted at Deadline 7 (Document Reference 6.1, Rev 8) conditions/amendments proposed by the PLA [REP6-090]</p> <ul style="list-style-type: none"> - consultation and notifications in relation to activities and programme relating to monitoring and UXO (see new condition 37); 	<p>The Applicant's without prejudice protective provisions are not acceptable and are not aligned with those for the Five Estuaries Offshore Wind Farm. The provisions do not include a remediation clause nor a disputes clause.</p> <p>The PLA has explained at length why the suite of other control measures do not give the PLA the certainty and protections it requires to ensure that Work No 3 and other works which could affect the DWRs and the Sunk Pilotage Area would not give rise to any unacceptable permanent or temporary impacts on navigation to and from the Port of London Authority.</p> <p>The dDCO should at least include the Protective Provisions included by Five Estuaries Offshore Wind Farm in the draft DCO with the necessary updates which were included in the PLA's response to Q9.3.3 (Appendix to REP7-093]</p>

	EXA's Proposed Changes	ExA's Reasoning	Applicant Response	PLA's Response and Position re Further Changes
			<ul style="list-style-type: none"> - that the PLA must be consulted on the operations and maintenance plan, see updated condition 13(4); and - the updated notification requirements in respect of surveys, the progress of development, and aids to navigation, under condition 16 and 17 of Schedule 9, in respect of the PLA (as one of the 'local harbour authorities'). <p>As a result, the Applicant has committed to and secure appropriate mitigation such that there would not be any unacceptable permanent or temporary impacts on navigation to or from the relevant ports.</p> <p>The Applicant has provided Protective Provisions (PPs) on a without-prejudice basis at Deadline 7 (Document Reference 9.111, Rev 0).</p>	