



Marine
Management
Organisation

Marine Licensing
Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

T +44 (0)300 123 1032
www.gov.uk/mmo

Cory Decarbonisation Project Case Team
Planning Inspectorate
CoryDP@planninginspectorate.gov.uk
(Email only)

MMO Reference: DCO/2023/00007
Planning Inspectorate Reference: EN010128

25 March 2025

Dear Sir or Madam,

Planning Act 2008, Cory Environmental Holdings Limited (CEHL), Proposed Cory Decarbonisation Project Order

Deadline 5 Submission

On 18 April 2024 the Marine Management Organisation (the "MMO") received notice under section 56 of the Planning Act 2008 (the "PA 2008") that the Planning Inspectorate ("PINS") had accepted an application made by Cory Environmental Holdings Limited (the "Applicant") for determination of a development consent order for the construction, maintenance and operation of the proposed Cory Decarbonisation Project (the "DCO Application") (MMO ref: DCO/2023/00007; PINS ref: EN010128).

The Applicant seeks authorisation for the construction, operation, maintenance and decommissioning of a carbon capture facility, including supporting plant and ancillary infrastructure.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours faithfully

[Redacted Signature]

[Redacted Name]

Marine Licensing Case Officer

D [Redacted]

E [Redacted] [@marinemangement.org.uk](mailto:[Redacted]@marinemangement.org.uk)



Marine
Management
Organisation

...ambitious for our
seas and coasts



Contents

1. MMO Comments on Applicant's Response to Interested Parties' Deadline 3 Submissions: 9.23 [REP4-033]	3
2. MMO Response to Examining Authority's (ExA) Second Written Questions (ExQ2) [PD-014].....	27
3. Comments on stakeholders Deadline 4 submissions	27
4. Statement of Common Ground Marine Management Organisation: 8.1.7 (Rev C) [REP4-020].....	27



1. MMO Comments on Applicant's Response to Interested Parties' Deadline 3 Submissions: 9.23 [REP4-033]

- 1.1. The MMO has addressed each of the Applicant's responses in the table below. Please note that the same number referencing for each comment as presented in Table 2-5 of the Applicant's Response to Interested Parties' Deadline 3 Submissions document has been used for consistency.

Table ref	Summary of issue raised	Applicant's response	MMO comments
Main DCO			
Part 2 Principal Powers			
2.5.1	<p>9. Benefit of the Order</p> <p>The MMO notes that the benefit of the order is typically solely reserved for the undertaker. In this order, the benefit of the order is solely for the undertaker save for any benefit in relation to Works No 2 (in which case the benefit is for the undertaker, REPL and RRRL) and then for Works No 1E(iv) to (vi), 2A (1) to (ii) and 3B where the benefit is for the undertaker and any company operating a heat network.</p> <p>The MMO requests that the Applicant explains why this is required. The MMO is concerned that this would cause a problem for enforcement purposes because it may be unclear who has the benefit or not at any specific point in time.</p>	<p>See paragraphs 4.3.20 and 4.3.22 of the Draft Explanatory Memorandum [APP-019].</p> <p>Article 9(2) provides that Work No. 2 is for the benefit of both the undertaker and REPL and RRRL because Work No. 2 is the electrical connection to Riverside 1 and Riverside 2, which may be installed by any of these three parties, given that the connection is between both of the two existing facilities and the Carbon Capture Facility.</p> <p>Article 9(3) provides that Work Nos. 1E(iv)–(vi), 2A(i)–(ii), and 3(b) is for the benefit of both the undertaker and a company operating a relevant heat network (as defined by section 216 of the Energy Act 2023) because these works are likely to become part of the Riverside Heat Network, which may be installed by the operator of a district heat network or a communal heat network (as defined by section 216 Energy</p>	<p>The MMO thanks the Applicant for the explanation and are content with this.</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
		<p>Act 2023), as part of the wider development of that overall network.</p> <p>On the basis that the relevant works numbers may be carried out or operated by third parties other than the undertaker, it is necessary and appropriate for the respective DCO works powers to also be for the benefit of those third parties. This is well precedented in other made DCO. For example, the benefit provisions in each of the Gate Burton Energy Park Order 2024, Cottam Solar Project Order 2024 and West Burton Solar Project Order 2025 also apply to National Grid, in respect of works relating to substations owned and/or operated by National Grid.</p> <p>Finally, in terms of enforcement, section 161 (Breach of terms of order granting development consent) of the Planning Act 2008 provides that:</p> <p><i>“(1) A person commits an offence if without reasonable excuse the person – carries out, or causes to be carried out, development in breach of the terms of an order granting development consent, or otherwise fails to comply with the terms of an order granting development consent.”</i></p>	

Table ref	Summary of issue raised	Applicant's response	MMO comments
		These enforcement provisions are not specific to the undertaker and therefore may be sought against each of the other beneficiaries of the Order if the provisions of the PA 2008 apply to the relevant party.	
2.5.2	<p>10. Consent to transfer benefit of the Order</p> <p>The MMO objects to the provisions relating to the process of transferring and/or granting the deemed marine licences set out in the draft DCO at Article 10(2)-(11) insofar as these are intended to apply to the MMO and requests paragraphs 10(2)(a)-(b) and (3) be removed in their entirety and all references to the MMO be removed from Article 10, with a clarification added to specifically exclude these provisions from applying to the MMO (with corresponding wording added where appropriate in Schedule 11 Deemed Marine Licence).</p> <p>The MMO is concerned that the procedure proposed represents an unnecessary duplication of the existing statutory regime set out in s72 of the Marine and Coastal Access Act 2009 and that it will give rise to significant enforcement difficulties for the MMO. The MMO also considers that it has the potential to prejudice the operation of the system of marine regulatory control in relation to the proposed development. The MMO also regards the proposed procedure as</p>	<p>The purpose of including the Deemed Marine Licence and the corresponding transfer provisions in the DCO is to ensure that the Order operates as a 'one-stop shop' to the consenting of the Proposed Scheme, avoiding the need to seek separate consents under separate consenting regimes.</p> <p>As explained at point 7.2.1 of the Applicant's response to the MMO's DML Representations [AS-043], the ability of the Applicant to transfer the benefit of the DCO is required in order for the Applicant to retain commercial flexibility to transfer the benefit of the Order to a third party, subject to the provisions of the Article. It is important that the full provisions of the Order can be transferred, including a deemed marine licence, to ensure that the full scope of powers and controls under the Order are transferred as a complete package.</p> <p>Additional protections are already incorporated in the drafting of the Article for the benefit of the MMO, including Article 10(3) which provides that the undertaker</p>	<p>The MMO maintains our objection to the provisions relating to the process of transferring and/or granting the DML set out in the draft DCO at Article 10(2)-(11).</p> <p>The MMO do not consider that the Planning Act 2008 allows the DCO to make a provision to transfer the benefit of the DML in the way that is proposed.</p> <p>Section 120 of the Planning Act 2008 sets out what may be included in a DCO. S120(1) says a DCO can contain requirements connected with the development for which the DCO is granted. What is the development is set out in s31. Development is development which is or forms part of an NSIP project. What constitutes the NSIP is defined in s14.</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
	<p>cumbersome, more administratively burdensome, slower and less reliable than the existing statutory regime set out in s72 of the 2009 Act.</p> <p>In short, the MMO considers that little advantage is gained for the Applicant by these provisions and the tangible risks and disadvantages that it poses can be avoided by retaining the existing statutory regime in full.</p>	<p>requires the written consent of the Secretary of State to transfer the benefit of the deemed marine licence to any transferee or lessee. The Secretary of State must also consult the MMO before providing consent to the transfer (Article 10(3)).</p> <p>The ability to transfer the benefit of a DCO including a deemed marine licence is well precedented, including specifically in the River Thames in The Silvertown Tunnel Order 2018, The Port of Tilbury (Expansion) Order 2019, and in other recent DCO such as the Hornsea Four Offshore Wind Farm Order 2023.</p>	<p>S120(3) says that the Order may make provision relating to, or to matters ancillary to, the development for which consent is granted. The MMO considers this allows the Order to provide for things which are not part of the development itself. However, s120(3) is not a standalone provision. It must be read alongside s120(4). S120(4) says that the provisions that can be made under 120(3) include in particular provisions for or relating to any of the matters listed in Part 1 of Schedule 5. Where 'in particular' is used in connection with a list set out in legislation, it means the list is exhaustive. However, if it is not on the list, it could be included if it is of the same kind, class or nature as something on the list.</p> <p>The list in Schedule 5 includes at 30A and 30B the ability for a DCO to contain provisions relating to the DML; 30A allows an Order to contain a provision which deems to grant a DML whilst 30B allows an Order to contain a provision which allows</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
			<p>the Order to deem the conditions to be attached to the Order. However, the MMO do not consider it is sufficiently broad so as to include an ability in the DCO to provide a transfer provision for the DML in the way that is being proposed.</p> <p>Additionally, there are practical considerations. When the MMO transfer a licence under s72(7) of the Marine and Coastal Access Act 2009, the MMO must vary it. If the transfer was affected under the Order the MMO are likely to need to vary the licence as a result, under s153 and the schedule 6 of the Planning Act 2008 only the MMO can do that. The MMO could end up with the transfer being effected under the Order, but then having to vary separately using our own powers. If the transferring of the unvaried licence impacted on the MMO's ability to enforce during this time, this could lead to the MMO having to suspend the licence whilst the variation was carried out.</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
	Part 4 Interpretation		
2.5.3	<p>Title and wording immediately below the 'Part 4' title</p> <p>This "<i>Part 4 Interpretation</i>" seems to be in the middle of Part 3 and is not referenced in the contents at the beginning of the dDCO.</p> <p>The wording immediately below the title does not need to have the number 30 in front of it (if it does need numbering this is out of synch as it follows 35 and is before 36). The sentence also leads with "<i>In this schedule</i>", however this text is not within a schedule.</p>	<p>Article 35 of the draft DCO relates to the modification of Part 1 of the Compulsory Purchase Act 1965.</p> <p>Article 35(5) seeks to modify Schedule 2A of that 1964 Act. Specifically, Article 35(5)(b) seeks to insert a new "Part 4 Interpretation" into Schedule 2A of the 1964 Act. This would be as a new paragraph 30 in that Schedule.</p> <p>The references to 'Part 4 Interpretation', 'paragraph 30' and 'in this schedule' in Part 3 (Article 35) of the draft DCO are therefore correct as they are references to the 1965 Act.</p>	<p>The MMO thanks the Applicant for the explanation and are content with this.</p>
	Part 4 Miscellaneous and General		
2.5.4	<p>Deemed marine licence 42</p> <p>This Article has been added as a response to the amendments made to Article 49 to be clear that the MMO is not to be subject to the arbitration provisions. The MMO does not agree with the inclusion of this Article because if this is included, it would apply the statutory appeals process that ordinarily applies only to MMO decisions to refuse to grant a licence, or to decisions to attach conditions to a licence we grant, to the approval of the method statement and the</p>	<p>In absence of the Arbitration provisions (Article 49 and Schedule 15) applying to the MMO, the Applicant considers that it is not appropriate for there to be no clearly defined route to appeal. The Marine Licensing (Licence Application Appeals) Regulations 2011 sets out a statutory appeals process that the MMO will be used to dealing with. Therefore, the Applicant considers this to be a suitable alternative given that the MMO is not agreeable to arbitration, particularly given the criticality of the Proposed Jetty. The Applicant considers that reliance on Judicial Review</p>	<p>The MMO maintains our position and does not agree with the inclusion of Article 42 for the reasons previously stated.</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
	<p>sediment sampling plan under conditions 10 and 11 of the DML.</p> <p>This is not required because there is already a way to challenge our decision to refuse to approve it and that is via a Judicial Review. Therefore, the MMO requests that Article 42 be removed.</p>	<p>for the delivery of critical national priority infrastructure is not appropriate, particularly given that Judicial Review focusses on process and not merits.</p> <p>The wording at Article 42 ensures that there is another specific and defined procedure for appeals that will apply in the event that the MMO grants the deemed marine licence application subject to conditions or refuses the application. This provision allows for a process the MMO is used to dealing with to be invoked instead.</p>	
	Schedule 11 – Deemed Marine Licence		
	Part 1 General		
2.5.5	<p><i>“the licence holder”</i> means Cory Environmental Holdings Limited [...] and any transferee pursuant to article 10 (consent to transfer benefit of the Order) of the Order</p> <p>The MMO recommends that the latter part of the definition should be removed here: <i>“the licence holder” means Cory Environmental Holdings Limited [...] and any transferee pursuant to article 10 (consent to transfer benefit of the Order) of the Order</i></p> <p>To ensure that the transferee/lessee is clearly bound by the conditions of the DML, which is required for enforcement purposes, the MMO requests that a provision be included within Article 10 (consent to transfer benefit of the</p>	<p>The Applicant considers that the existing wording already ensures that any transferee or lessee of the DCO is clearly bound by the conditions of the DML.</p> <p>Upon granting the DCO, the marine licence set out in Schedule 11 (deemed marine licence) will be deemed to have been issued to Cory Environmental Holdings Limited (CEHL) under Part 4 of the 2009 Act (marine licensing), subject to conditions. As explained at point 7.2.5 of the Applicant's response to the MMO's DML Representations [AS-043], it is important to ensure that the Deemed Marine Licence is distinguishable from the DCO. The Applicant would be the undertaker for the</p>	<p>In line with our comments at 2.5.2, the MMO maintains our recommendation that the definition of “the licence holder” is updated to remove the latter part: <i>“the licence holder” means Cory Environmental Holdings Limited [...] and any transferee pursuant to article 10 (consent to transfer benefit of the Order) of the Order</i></p> <p>As such, the MMO maintains our request that a provision be included within Article 10 of the Order along these lines:</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
	Order) that states something along these lines: <i>"(12) Where an agreement has been made in accordance with paragraph [*] or [*] references in this Order to the undertaker, except in paragraphs [*],[*],[*] and the first reference in paragraph [*] include references to the transferee or lessee."</i>	<p>purposes of the DCO (as defined in Article 2 of the DCO) but would be a licence holder pursuant to the Deemed Marine Licence (as defined in Part 1 of Schedule 11 of the DCO), which must be clearly differentiated.</p> <p>It is also important that the full provisions of the Order can be transferred, including a deemed marine licence, to ensure that the full scope of powers and controls under the Order are transferred as a complete package. Therefore, it is appropriate for the DCO to contain those broad transfer powers (Article 10), with the definition in the DML confirming on the face of the DML that it includes any such transferee or lessee under those DCO provisions.</p>	<i>"(12) Where an agreement has been made in accordance with paragraph [*] or [*] references in this Order to the undertaker, except in paragraphs [*],[*],[*] and the first reference in paragraph [*] include references to the transferee or lessee."</i>
2.5.6	<p><i>"the licence holder"</i></p> <p>The MMO has transitioned away from using the term 'Licence Holder' to the term 'Undertaker'. The MMO has noted that this phraseology has been used here and throughout the document and urges the Applicant to amend the term 'Licence Holder' to 'Undertaker' throughout the DML going forward.</p>	The Applicant intends to keep the existing wording. As explained at point 7.2.5 of the Applicant's response to the MMO's DML Representations [AS-043] and above, it is important to ensure that the Deemed Marine Licence is distinguishable from the DCO. The Applicant would be the undertaker for the purposes of the DCO but would be a licence holder pursuant to the Deemed Marine Licence, which must be clearly differentiated.	<p>The MMO maintains our position and requests that the Applicant amend the term 'Licence holder' to the term 'Undertaker' throughout the DML.</p> <p>The term 'Undertaker' is currently used within standard marine licences that the MMO grants.</p>
2.5.7	<p><i>"the order"</i></p> <p>The MMO notes that the definition of the Order refers to the <i>"Riverside</i></p>	This is noted. The Applicant has updated the draft DCO at Deadline 4 to amend the definition of Order in the DML at Schedule	The MMO notes that the draft DCO has been updated and has no further comments.

Table ref	Summary of issue raised	Applicant's response	MMO comments
	<i>Decarbonisation Order 202[*]</i> ". Should the Order not refer to the " <i>Cory Decarbonisation Project Order 202[*]</i> "?	11 to refer to the "Cory Decarbonisation Project Order 202 [*]".	
2.5.8	<p><i>"the River"</i></p> <p>The MMO does not consider this definition, or the use of the term "<i>the River</i>", to be necessary and request that this be removed. The Order has a definition of what the "<i>authorised development</i>" means, and Works No.4 of the Order should already have been properly defined. Therefore, there is no need to add in a definition of "<i>the River</i>" and refer to works within "<i>the River</i>" in 3(2). The interpretation of "<i>authorised development</i>" should be the same in the DML as is set out in the Order.</p>	<p>This term is required as a result of the 'Concrete and cement' and 'Coatings and treatments' conditions.</p> <p>Condition 3 doesn't just include Work No. 4, it includes those works referred to in the ancillary works wording at the end of Schedule 1</p>	The MMO thanks the Applicant for the explanation and are content with this.
2.5.9	<p>The MMO considers that following definitions should be included within the DML. We would be happy to discuss wording for these definitions if required.</p> <p>"Local Planning Authority"</p> <p>"MCMS"</p> <p>"Notice to Mariners"</p> <p>"Percussive Piling"</p> <p>"Seabed"</p> <p>"Vessel"</p> <p>"TH070"</p>	<p>The Applicant has responded to this request in the Applicant's Responses to Interested Parties' Deadline 1 Submissions [REP2-019], specifically REP1-036.</p> <p>To confirm, the following terms are not used in the DML:</p> <ul style="list-style-type: none"> • Local Planning Authority • MCMS • Notice to Mariners <p>As raised in its earlier response, the Applicant would welcome proposals from the MMO as to definitions of "Percussive Piling", "Seabed" and "Vessel". The</p>	<p>The MMO are content that the following definitions do not need to be included within the DML:</p> <ul style="list-style-type: none"> • Local Planning Authority • MCMS • Notice to Mariners <p>Upon further review of the DML, the MMO no longer considers it necessary to include a definition of "TH070" as sufficient context is provided in paragraph 20.</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
		Applicant would also welcome proposals from the MMO as to the definition of "TH070".	<p>The MMO proposes the following definitions should be included within the DML:</p> <p>"percussive piling" means piling by sinking or driving a pile by direct or indirect hammering or other percussive means, including piling by the use of a drop hammer, diesel hammer, double acting hammer, single acting hammer, internal drop hammer, pneumatic hammer, steam hammer or other percussive device, other than a device that is portable and designed for operation while held by hand without any other form of support.</p> <p>"seabed" means the ground under the sea.</p> <p>"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, a hovercraft or any other amphibious vehicle and any other thing constructed or</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
			adapted for movement through, in, on or over water and which is at the time in, on or over water.
2.5.20	<p>Contacts</p> <p>The MMO notes that 2(1) states "<i>the main point of contact</i>" and then proceeds to list two contacts. We suggest this wording be updated to "<i>the points of contact</i>". When a notification to the MMO is required, both the Marine Licensing Team and the Hastings Office need to be notified.</p>	The Applicant has updated the draft DCO at Deadline 4 to amend the wording at paragraph 2(1) as suggested by the MMO.	The MMO notes that the draft DCO has been updated and has no further comments.
2.5.11	<p>Contacts</p> <p>Paragraph 2(3) states "<i>Unless otherwise agreed in writing by the MMO, all applications or notifications required under this licence must be sent by the undertaker to the MMO using the MMO's marine case management system</i>". However, this does not work with condition 16(b) which says that the licence holder must report spills of oil, fuel, or chemicals into the Marine Environment pursuant to 2(2), which in turn directs that notification directly to the pollution response team via a telephone number and/or a dedicated email address which is not via the marine case management system (MCMS). Paragraph 2(3) needs to reflect this and be amended to make it clear this does not include notifications under 16(b) which should go via the route set out in 2(2) rather than</p>	The Applicant has updated the draft DCO at Deadline 4 to amend the wording at paragraph 2(3) as suggested by the MMO.	The MMO notes that the draft DCO has been updated and has no further comments.

Table ref	Summary of issue raised	Applicant's response	MMO comments
	MCMS. This is to avoid the need for any separate written approval from the MMO to allow pollution incidents to be notified to the MMO other than through MCMS.		
2.5.12	<p>Details of such licenced marine activity</p> <p>The MMO has concerns regarding this drafting, in particular the general right to alter, clean, modify, dismantle, refurbish, reconstruct, remove, relocate or replace any work or structure at (3(2)(b)(i)), very broad rights to carry out excavations and clearance, deepening, scouring, cleansing, dumping and pumping operations at (3(2)(b)(ii)), dispose of any materials (3(2)(b)(iii)) and remove and relocate any vessel whether lawfully or not (3(2)(b)(iv)). The MMO requests that these are amended or clarified as to whether these will be addressed further in the method statement. As drafted, these are very vague and the very broad nature of the provisions as they stand, especially given the absence of the other standard plans and statements, the MMO would expect to see references.</p>	These matters would be considered in any construction method statement approved by the MMO. The drafting here reflects the wording of DMLs and DCOs previously approved in the River Thames and in the marine environment.	The MMO thanks the Applicant for the clarification and are content with this.
2.5.13	The MMO previously requested in our Relevant Representation and Deadline 1 submission that the exact coordinates be provided in Part 1 of the DML. The Applicant has stated in AS-043 that these were in the Works Plans so are not required here. However, the DML is a standalone document and it cannot refer to containing information in	The Applicant has made the update at Deadline 4 to provide for this.	The MMO notes that the draft DCO has been updated and has no further comments.

Table ref	Summary of issue raised	Applicant's response	MMO comments
	different documents or plans. We again request that these be provided in the DML.		
	Part 2 Conditions		
2.5.14	<p>Notifications regarding licensed activities:</p> <p>The current wording of this condition suggests that it only applies to agents/contractors that are carrying out licensable activities which require the involvement of a vessel. The MMO recommends this is amended to the following for clarity:</p> <p><i>"The licence holder must ensure that a copy of this licence has been read and understood by any agents and contractors that will be carrying out any licensed activity on behalf of the licence holder as well as any masters or transport managers responsible for any vessels involved with or used during the carrying out of any licensed activities on behalf of the licence holder."</i></p>	<p>The Applicant has updated the draft DCO at Deadline 4 to make it clear that the condition applies in respect of <i>"any agents and contractors that will be carrying out any licensed activity on behalf of the licence holder"</i>.</p> <p>However, the Applicant intends to keep the existing wording of the condition in respect of the masters or transport managers. The Applicant considers that it is more certain for the condition to apply in respect of <i>"vessels that will be carrying out any licensed activity"</i> as opposed to <i>"vessels involved with or used during the carrying out of any licensed activity"</i>. It is particularly uncertain to determine which vessels were 'involved with' the carrying out of the licensed activity.</p>	The MMO notes that the draft DCO has been updated and has no further comments.
2.5.15	<p>Notifications regarding licensed activities</p> <p>The obligation to make a copy of this licence available for inspection should be directly on those carrying out the licensed activity. The MMO suggests a potential wording change for this below:</p> <p><i>"The masters or transport managers responsible for the vessels that will be carrying out any licensed activity on behalf of</i></p>	The Applicant does not consider this wording to be necessary because, in addition to the obligation on the licence holder to make the licence available for inspection, the DML also includes an obligation on the licence holder to request the same from the masters or transport managers.	The MMO notes that Condition 8 of the DML states that the licence holder must request that a copy of this licence be made available for inspection. However, with the current wording, there is no obligation on the masters or transport managers responsible for the vessels that will be carrying out any licensed activity

Table ref	Summary of issue raised	Applicant's response	MMO comments
	<i>the licence holder as notified to the MMO under condition 5 must make a copy of this licence available for inspection on board such vessels during the carrying out of any licensed activity."</i>	See Condition 8 of the DML which provides that: <i>"The licence holder must request that the masters or transport managers responsible for the vessels that will be carrying out any licensed activity on behalf of the licence holder as notified to the MMO under condition 5 make a copy of this licence available for inspection on board such vessels during the carrying out of any licensed activity."</i>	to comply with this request. Hence, the MMO's suggested wording change to Condition 8 of the DML.
2.5.16	<p>Construction environmental management plan</p> <p>The MMO would expect to see some provisions along these lines:</p> <p><i>"Construction environmental management plan —(1) No licensed activities may be commenced until a construction environmental management plan for them has been submitted to and approved by the MMO following consultation with the relevant planning authority, the Environment Agency and Natural England on matters related to their function; and the submitted construction environmental management plan must be in accordance with the outline construction environmental management plan, unless otherwise approved by the MMO. (2) Any construction environmental management</i></p>	<p>The Applicant uses the terminology of code of construction practice instead of construction environmental management plan. The Draft DCO already includes a requirement for a code of construction practice (see Requirement 7 of Schedule 2), therefore the Applicant does not consider it necessary for a further requirement to be inserted in respect of a construction environmental management plan.</p> <p>Condition 9 of the Deemed Marine Licence requires that all construction licensed activities must be carried out in accordance with the code of construction practice approved under Requirement 7. Requirement 7 requires the full code of construction practice to be substantially in accordance with the outline code of construction practice.</p>	The MMO thanks the Applicant for the explanation and are content with this.

Table ref	Summary of issue raised	Applicant's response	MMO comments
	<p><i>plan submitted pursuant to sub-paragraph (1) and any construction environmental management plan submitted pursuant to paragraph 6(1) of Schedule 2 (requirements) of the Order may be comprised in the same document or separate documents."</i></p> <p><i>And "all licensed activities must be carried out in accordance with the construction environmental management plan for those activities approved pursuant to paragraph [*] of this Schedule where applicable, unless otherwise approved by the MMO."</i></p>	<p>Further, Condition 10 of the Deemed Marine Licence requires the Applicant to submit a method statement for the approval of the MMO in respect of the licensed activities. Therefore, to the extent the MMO requires any management measures, such measures can be requested as part of the method statement approval process.</p> <p>The Draft DCO therefore already provides the protection that we understand the MMO is seeking.</p>	
2.5.17	<p>Marine Noise Registry</p> <p>As works include piling, the MMO would expect to see a condition regarding the Marine Noise Registry, for example as below:</p> <p><i>"-(1) Only when impact driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry (MNR)—</i> <i>a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements; and</i></p>	<p>The Applicant has updated the draft DCO at Deadline 4 to provide for this.</p>	<p>The MMO thanks the Applicant for the inclusion of Condition 12 of the DML and has no further comments.</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
	<p><i>(b) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the exact locations and specific dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements.</i></p> <p><i>(2) The undertaker must notify the MMO of the successful submission of Forward Look requirements."</i></p>		
2.5.18	<p>Sediment sampling</p> <p>The MMO considers that this condition is not appropriate as drafted and lacks detail. A requirement to carry out the sediment sampling in accordance with the approved plan should be included here.</p>	<p>The Applicant has updated the draft DCO at Deadline 4 to ensure that Condition 11 provides that any sediment sampling carried out under that condition must be in accordance with the approved plan.</p>	<p>The MMO notes that the draft DCO has been updated and has no further comments.</p>
2.5.19	<p>Marine written scheme of archaeological investigation</p> <p>The MMO considers that a marine written scheme of archaeological investigation should be included within the DML, and we suggest potential wording for this below:</p> <p><i>"Archaeological method statements, together with a written report on any consultation carried out with Historic England and the relevant planning authority on matters related to their respective functions in their preparation, must be submitted to and</i></p>	<p>The Deemed Marine Licence forms part of the Draft DCO, which secures the requirement for an Archaeological Mitigation Strategy prior to commencement of the development (see Requirement 22). The Applicant updated the Draft DCO during pre-examination to include the MMO as a consultee for the purposes of Requirement 22. As a result, for any archaeological survey/mitigation works within the marine environment and the development of the archaeological mitigation strategy, the MMO will have the opportunity to comment, prior to the works</p>	<p>The MMO recognises that the requirement for an archaeological mitigation strategy is secured in Requirement 22 of Schedule 2 of the Order, and that the MMO is included as a consultee for the purposes of Requirement 22.</p> <p>However, the MMO considers that the DML should include a condition which requires that all licensed activities must be carried out in accordance with</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
	<i>approved by the MMO in writing in accordance with the provisions of the outline marine written scheme of investigation and a subsequent update must be provided to the MMO six weeks before commencement of any licensed activity to which the method statement relates."</i>	being carried out. It is important the appropriate heritage stakeholders are the approver for a heritage document.	any submitted archaeological mitigation strategy approved under Requirement 22. It is recommended that the wording of this condition be similar to Condition 9 of the DML, which relates to the code of construction practice approved under Requirement 7 of Schedule 2 of the Order.
2.5.20	<p>Notice to Mariners</p> <p>The MMO would expect to see provisions covering this along these lines:</p> <p><i>"Notice to Mariners —(1) Local mariners, fishermen's organisations and the UK Hydrographic Office must be notified of any licensed activity or phase of licensed activity through a local Notice to Mariners. (2) A Notice to Mariners must be issued at least 5 days before the commencement of each licensed activity or phase of licensed activity. (3) The MMO and Maritime and Coastguard Agency must be sent a copy of the notification within 24 hours of issue. The Notice to Mariners must include— (a) the start and end dates of the work; (b) a summary of the works to be undertaken; (c) the location of the works area, including coordinated in accordance with WGS84; and (d) any markings of the</i></p>	The Applicant does not consider this wording to be necessary because Article 25 (Works in the river Thames: conditions) of the Draft DCO already provides that the public right of navigation over the River Thames may only be temporarily suspended with the written approval of the PLA and subject to the conditions set out in Article 25. The Draft DCO also includes protective provisions for the benefit of the PLA at Part 5 of Schedule 12 which require work approvals from the PLA. The PLA has ultimate navigational control for the River Thames and the necessary mechanisms are already in place within the DCO for the PLA to request notice to Mariners if the PLA considered that to be necessary.	The MMO considers the inclusion of the Notice to Mariners condition as standard for all DMLs and maintains our request that a provision for this is included in the DML.

Table ref	Summary of issue raised	Applicant's response	MMO comments
	<i>works area that will be put in place. (4) A copy of the notice must be provided to the MMO via MCMS within 24 hours of issue of a notice under sub-paragraph (1)."</i>		
2.5.21	<p>Piling</p> <p>The mitigation measures included for piling in the outline code of construction practice document [REP2-008] and the mitigation set out in the 'Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise' document by Joint Nature Conservation Committee (JNCC) that the Ecological Clerk of Works (ECoW) will be following, must be included in the DML.</p> <p>The MMO considers this condition is not detailed enough and we request the following conditions are added:</p> <p><i>"Between 1 March and 30 June (inclusive), in any given year, no piling of any type must take place in the water."</i></p> <p><i>"No piling of any type is permitted between sunset and sunrise each day. The times of sunset and sunrise should be set in accordance with HM Nautical Almanac Office data."</i></p>	<p>No amendments are necessary for the mitigation measures included for piling in the outline code of construction practice [REP2-008] or the mitigation set out in the 'Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise' to be included in the DML.</p> <p>Condition 9 of the DML already requires that "all construction licensed activities" must be carried out in accordance with the code of construction practice approved under requirement 7 (code of construction practice) of Schedule 2 of the Order where applicable. As such, any licence holder is already bound by the mitigation measures under the code of construction practice.</p> <p>Paragraphs 6.2.3 – 6.2.5 of the Outline Code of Construction Practice includes the measures that have been agreed with the MMO for mitigation in the marine environment, which are consistent with and build on what is set out in the environmental statement.</p>	The MMO thanks the Applicant for the explanation and are content with this.
2.5.22	Dredging	Condition 13 (Dredging) should be considered alongside the commitments in	The MMO thanks the Applicant for the explanation and notes

Table ref	Summary of issue raised	Applicant's response	MMO comments
	The MMO notes that this is a very spartan provision with significant information gaps, such as a detailed description of water injection dredging, to make it clear what should not be undertaken within this period. This should be updated in line with other DCOs of a similar nature. Alternatively, this should be covered in detail in the method statement.	the code of construction practice pursuant to Condition 9 (Code of construction practice) and Requirement 7. The Outline Code of Construction Practice includes various commitments in respect of dredging and is the appropriate mechanism for such commitments to be secured. It is therefore not necessary for such commitments to be repeated in the method statement.	that a detailed description of water injection dredging should be provided within a method statement pursuant to Condition 10 of the DML. The MMO has no further comments on Condition 14 (Dredging) of the DML.
2.5.23	Pollution and spills Consider including the below: <i>"16.—(d) The undertaker must comply with the existing marine pollution contingency plan in place as detailed in the construction environmental management plan."</i>	Sub-paragraph (d) as suggested by the MMO is not applicable as pollution prevention matters are dealt with pursuant to the code of construction practice.	The MMO thanks the Applicant for the explanation and are content with this.
2.5.24	Post activities The MMO requests that we be notified in writing when this has been completed, within five business days following completion of the removal.	The draft DCO has been updated at Deadline 4 to provide for this.	The MMO notes that the draft DCO has been updated and has no further comments.
2.5.25	Dropped objects Should it be required, the MMO will provide a copy of the Dropped Object Procedure Form. The MMO notes that there is an error in 22(3) in the second sentence where it states <i>"obstructions form the seabed"</i> where it should say <i>"obstructions from the seabed"</i> .	The draft DCO has been updated at Deadline 4 to correct the typo.	The MMO notes that the draft DCO has been updated and has no further comments.

Table ref	Summary of issue raised	Applicant's response	MMO comments
	Part 3 Procedure for the discharge of conditions		
2.5.26	<p>The MMO strongly disagrees with the inclusion of Part 3 as currently drafted. Further explanation should be provided by the Applicant as to why Part 3 is considered necessary within the DML.</p> <p>It is unusual for a DML to place obligations on the regulator, and whilst this uses language of "<i>the MMO may</i>" in many places, it moves to "<i>the MMO must</i>" within 26(2) and 27. If the MMO does not grant the application, grant it subject to conditions, or refuse it as soon as is reasonably practicable after the application is received, then the MMO will breach a condition of the DML. This would be an offence (the offence in s85 of the Marine and Coastal Access Act 2009 (MCAA) is an any person offence not a licence holder offence). The wording of a DML should not place obligations on the regulator for which there is criminal liability in the way this does.</p>	<p>The purpose behind Part 3 of the DML aligns with the justification for Schedule 14 (Procedure in relation to certain approvals etc.) of the draft DCO. The defined procedure for the discharge of conditions is required in order to ensure that decisions relating to the DML are dealt with efficiently so that the delivery of this project of national significance, which will support the UK's transition to a net zero economy, is not unduly delayed.</p> <p>The Applicant's response at 2.4.28 below explains why the obligation at paragraph 26(2) is required and the Applicant's response at 2.4.29 below explains why the obligations at paragraph 27 are required.</p> <p>This drafting is well precedented in DCOs (including The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014; The Silvertown Tunnel Order 2018; and The Lake Lothing (Lowestoft) Third Crossing Order 2020), however the Applicant will add drafting to be clear that the MMO will not have criminal liability for breach.</p>	<p>The MMO notes that Part 3 of the DML has been updated and appreciates the Applicant's explanation for its inclusion in the DML.</p> <p>However, the MMO still requests that any instances of the wording "<i>the MMO must</i>" is changed to "<i>the MMO may</i>" in paragraphs 28(2) and 29.</p>
2.5.27	Further information regarding application	The Applicant sees no harm in being clear as to what the MMO may do.	The MMO notes the Applicant's response and has no further comments on paragraph 27.

Table ref	Summary of issue raised	Applicant's response	MMO comments
	25 just says that the MMO may require further information, which is to some extent simply a statement of fact and therefore is considered to be unnecessary here.		
2.5.28	<p>Determination of application</p> <p>26(1) just sets out what the MMO may have regard to. The MMO can have regard under public law rules to what is relevant, so this is considered to be unnecessary in the DML.</p> <p>26(2) is not appropriate. This will place the MMO under an obligation to do something and it brings with it a criminal liability under s85 of MCAA if we fail to do so. This is not acceptable and should not be included in the DML.</p> <p>This goes further than MCAA does in relation to the MMO's standalone marine licence application decisions. Considering that s69 of MCAA says the MMO must have regard to the need to protect the environment, need to protect human health, need to prevent interference with legitimate uses of the sea, when determining application for licences but it is not obliged in relation to standalone marine licence applications to grant the licence unconditionally, grant it subject to the conditions we see fit or refuse it. The MMO can see no reason for justification for going</p>	<p>The Applicant does not consider the existing wording to be inconsistent with public law rules as paragraph 26(1)(c) (which following amendments made by the Applicant to the draft DCO at Deadline 4 is now paragraph 28(1)(c)) confirms that the MMO may have regard to "<i>such other matters as the MMO thinks relevant</i>". This catch-all ensures that the MMO retains full flexibility when determining whether to approve a method statement but makes it clear, on the face of the DML, what matters the MMO may take into account. The drafting does not seek to limit what the MMO can take into account.</p> <p>Paragraph 26(2) (which following amendments made by the Applicant to the draft DCO at Deadline 4 is paragraph 28(2)) is required to ensure that there is no unnecessary impediment to the Proposed Scheme. This provision requires the MMO to make a decision on any method statement submitted to the MMO under Conditions 10 or 11, which is essential for the delivery of the Proposed Scheme because Condition 10(3) prevents the licence holder from commencing any</p>	<p>The MMO notes the Applicant's response regarding paragraph 28(1) and has no further comments on paragraph 28(1).</p> <p>The MMO notes the inclusion of 28(3) which sets out that if the MMO is unable to determine the application in accordance with paragraph 28(2) then this shall not constitute a breach of the condition nor be an offence under the Marine and Coastal Access Act 2009.</p> <p>However, the MMO still requests that any instances of the wording "<i>the MMO must</i>" is changed to "<i>the MMO may</i>" in paragraph 28(2).</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
	beyond this for discharging conditions under this DML.	<p>licensed activity until the MMO has approved in writing the submitted method statement. The Applicant does not consider this unreasonable as it does not impose any obligation on the MMO for approval to be granted.</p> <p>However, in light of the MMO's concerns about potential criminal liability arising under the Marine and Coastal Access Act 2009 in the event that the MMO is for some reason unable to determine an application in accordance with paragraph 28(2), the Applicant has inserted a new paragraph 28(3) setting out that if the MMO is unable to determine the application in accordance with paragraph 28(2) then this shall not constitute a breach of the condition nor be an offence under the Marine and Coastal Access Act 2009.</p>	
2.5.29	<p>Notice of determination</p> <p>This again places an obligation on the MMO as it states that we "<i>must give notice</i>" of our decision as soon as is reasonably practicable and we "<i>must state the reasons</i>" with a refusal notice. This is not appropriate and should not be included in the DML. There is an established route for challenges for the MMO either failing to approve plans, or attaching conditions to approvals, through the Judicial Review process.</p>	<p>The obligations in paragraph 27 are necessary to ensure an efficient delivery of the Proposed Scheme. If the MMO is not given notice of the determination; made aware of a request for further information and/or informed of reasons for refusal, then this may result in an unnecessary delay to the Applicant being able to obtain the required approval of its method statement.</p> <p>By obliging the MMO to provide such notice(s) and/or provide reasons for refusal,</p>	<p>The MMO acknowledges that the obligations are appropriately limited by providing that the notices at 29(1) and 29(2) must only be given "<i>as soon as reasonably practicable</i>".</p> <p>However, the MMO still requests that any instances of the wording "<i>the MMO must</i>" is changed to "<i>the MMO may</i>" in paragraph 29.</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
		<p>ensures that the Applicant is in an informed position in an efficient manner to allow the Applicant to modify its application (if required) to secure the MMO's approval of the method statement.</p> <p>In any event, the Applicant considers that the obligations are appropriately limited by providing that the notices at sub-paragraphs (1) and (2) must only be given "<i>as soon as reasonably practicable</i>". There is no time limit on sub-paragraph (3) and the Applicant considers this a reasonable request to avoid any risk of an unjustified refusal of its application.</p>	
2.5.30	<p>Variations of approvals of Part 2 Conditions</p> <p>The MMO does not consider 28 relevant in Part 3 of the DML, as it is not about the procedure for discharging conditions, but rather about ensuring when the undertaker has to carry out an activity in accordance with an approved plan, they do so in accordance with the plan or any approved variation to it.</p> <p>28(1) would perhaps be more relevant in Part 2 of the DML, for example directly in the clauses which say activities must be carried out in accordance with approved plans.</p> <p>28(2) is not considered necessary in the DML. The MMO also notes that the environmental</p>	<p>The Applicant intends to keep the existing wording but will move it to Part 2.</p> <p>The need for paragraph 28(2) is to ensure that any small amendments in EIA terms do not require the Applicant to go through the full discharge process again. The language used is consistent throughout the DCO and therefore the Applicant considers this appropriate.</p>	<p>The MMO notes that the Variations of approvals of Part 2 Conditions wording has been moved to Part 2 of the DML. The MMO considers this to be appropriate and has no further comments on this.</p>

Table ref	Summary of issue raised	Applicant's response	MMO comments
	statement considers likely significant effects (positive or negative). Therefore, the use of " <i>worse than</i> " is inappropriate in this context.		

2. MMO Response to Examining Authority's (ExA) Second Written Questions (ExQ2) [PD-014]

2.1. Q2.20.1 Water Framework Directive (WFD) assessment

The MMO can confirm receipt of the Applicant's Sediment Sampling Technical Note on 05 March 2025. The MMO provided initial comments on the Technical Note on 20 March 2025. The MMO understands that the Applicant plans to submit an updated version of the Technical Note into the Examination at Deadline 5, as per the Applicant's Response to the Rule 17 Letter: 9.22 [AS-087].

However, it is important to note that the MMO defers to the Environment Agency regarding decisions on the WFD assessment.

3. Comments on stakeholders Deadline 4 submissions

3.1. The MMO has reviewed the Deadline 4 submissions of the following interested parties:

- Port of London Authority - Comments on any other information or submissions submitted at Deadline 3 [REP4-038]

3.2. The MMO has no comments on this and will maintain a watching brief on any further discussions or issues, in particular if any mitigation should be secured within the DML.

4. Statement of Common Ground Marine Management Organisation: 8.1.7 (Rev C) [REP4-020]

4.1. The MMO has reviewed the submitted Statement of Common Ground Marine Management Organisation: 8.1.7 (Rev C) document. The MMO provided comments to the Applicant regarding the Statement of Common Ground on 11 February 2025. The MMO thanks the Applicant for updating the Statement of Common Ground in line with the comments provided.

4.2. There are a number of matters currently under discussion between the MMO and the Applicant. The MMO notes that the Applicant intends to submit an updated Statement of Common Ground at Deadline 5. The MMO welcomes this and will review and provide comments on the document as necessary.

