



Marine
Management
Organisation

SEA LINK PROJECT

EN020026

Marine Management Organisation

Principal Areas of Disagreement Summary

Statement (PADSS)

Finalised: 28 August 2025

The Marine Management Organisation (MMO) has prepared the below Principal Areas of Disagreement Summary Statement in response to a letter issued by the Examining Authority under s89(3) of the Planning Act 2008, dated 8 July 2025.

This request stated that this should be in a table format (similar to a Scott Schedule), addressing the following concerns:

- The principal issue in question
- A brief explanation of the concerns held by the party which they will report on in full in LIR/WRs'
- On a without prejudice basis what, in the part's view, needs to change/be amended/included so as to overcome the disagreement; and
- In the opinion of that party, the likelihood of the concern being addressed during the examination stage.

The MMO has provided its PADSS for the Sea Link project as per the above requested format, please see below.

Ref	Area of Concern	Explanation	Remedy Measures	Likelihood of Resolution
1	<u>Draft Development Consent Order</u> Part 2 Principal Powers 7 Consent to transfer benefit of the Order	<p>The MMO objects to the inclusion of Article 7 as this provision operates to make the decision that of the undertaker, with the Secretary of State (SoS) providing consent to the transfer, rather than the MMO as the regulatory authority for marine licences considering the merits of any application for a transfer.</p> <p>These provisions should be removed and any transfer should be subject to the existing regime under the 2009 Act, with the decision maker remaining the MMO.</p>	<p>Article 7(1) states: <i>The undertaker may, with the consent of the Secretary of State –</i></p> <p>— (a) <i>transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee;"</i></p> <p>The MMO considers that this is a clear departure from the 2009 Act, which would normally require the licence holder (here 'the undertaker') to make an application to the MMO for a licence to be transferred. Instead, this provision operates to make the decision that of the undertaker, with the Secretary of State providing consent to the transfer, rather than the MMO as the regulatory authority for marine licences considering the merits of any application for a transfer.</p> <p>Parliament has already created a statutory regime for such a process</p>	<p>The Applicant disagrees with MMO's position. The MMO expects that this will not be addressed prior to the end of examination.</p>

			<p>and it is unclear what purpose the written consent of the SoS actually serves. If the intention is for the undertaker to be able to transfer the benefits under the terms of the DCO outside the established procedures under 2009 Act, the MMO queries why is it considered necessary or appropriate for the SoS to 'approve' the transfer of the DML.</p> <p>It is also unclear what criteria the SoS would be taking in determining whether to approve any transfer, and how this would differ from a consent granted by the MMO under the existing 2009 Act regime.</p> <p>Because of this confusion and potential duplication, it is the position of the MMO that these provisions are removed and that any transfer should be subject to the existing regime under the 2009 Act, with the decision maker remaining the MMO.</p> <p>Article 7(1)(b) gives the right to temporarily transfer the benefits of the DCO (including DML) to a third party.</p> <p>Article 7(1)(b)</p>	
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			<p><i>"7(1)(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this and such related statutory rights as may be so agreed."</i></p> <p>The MMO resists the inclusion of this article. The MMO does not recognise that this would create a more streamlined system. Rather it simply operates to create an additional administrative procedure for marine licences (and one not envisaged by Parliament) and with no clarity in how it will operate.</p>	
2	<p><u>Draft Development Consent Order</u></p> <p>Schedule 16, Deemed Marine Licence</p> <p>Part 1 (10)</p>	<p>The MMO notes that this states the provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order). The MMO disagrees with this inclusion.</p>	<p>The MMO highlights our previous comments above regarding the benefit of the order.</p>	<p>The Applicant disagrees with MMO's position. The MMO excepts that this will not be addressed prior to the end of examination.</p>

3	<u>Draft Development Consent Order</u> Article 62 (Arbitration)	The MMO disagrees with this provision for arbitration. Consents and approvals of the MMO should not be subject to arbitration, and recent DCOs have added in an extra provision related to this.	It must be made expressly clear that the MMO is not to be subject to the arbitration provisions. This must be amended to specifically exclude the MMO, as below: "Any matter for which the consent or approval of the Secretary of State of the MMO is required under any provision of this Order is not subject to arbitration".	The Applicant disagrees with MMO's position. The MMO expects that this will not be addressed prior to the end of examination.
4	<u>Draft Development Consent Order</u> Schedule 16, Deemed Marine Licence, Part 2 2. (Extension of time periods)	Under this provision any time period given in the licence to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed. The MMO considers this is not necessary.	The MMO does not agree with the inclusion of this and requests that it is removed. The wording is not included in a standard marine licence and the MMO does not consider it necessary. All conditions within the DML should include all information relevant to that condition, including in relation to time periods.	The MMO is in discussions with the Applicant regarding this and currently unsure on the likelihood of resolution.

5	<p><u>Draft Development Consent Order</u></p> <p>Schedule 16, Deemed Marine Licence, Part 2</p> <p>4. (1) Cable Specification and Installation Plan timescale</p>	<p>This provides that licensed activities must not commence until a cable specification and installation plan document has been submitted and approved in writing by the MMO and that this approval is to be within 16 weeks of submission. The MMO considers it inappropriate to put timeframes on complex technical decisions of this nature.</p>	<p>The time it takes the MMO to make such determinations depends on the quality of the application made, and the complexity of the issues and the amount of consultation the MMO is required to undertake with other organisations to seek resolutions.</p> <p>The MMO's position remains that it is inappropriate to apply a strict timeframe to the approvals the MMO is required to give under the conditions of the DML given this would create disparity between licences issued under the DCO process and those issued directly by the MMO, as marine licences issued by the MMO are not subject to set determination periods.</p> <p>Whilst the MMO acknowledges that the Applicant may wish to create some certainty around when it can expect the MMO to determine any applications for an approval required under the conditions of a licence, and whilst the MMO acknowledges that delays can be problematic for developers and that they can have financial implications, the MMO stresses that it does not delay</p>	<p>The MMO is in discussions with the Applicant regarding this and currently unsure on the likelihood of resolution.</p>
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			<p>determining whether to grant or refuse such approvals unnecessarily.</p> <p>The MMO makes these determinations in a timely manner as it is able to do so. The MMO's view is that it is for the developer to ensure that it applies for any such approval in sufficient time as to allow the MMO to properly determine whether to grant or refuse the approval application.</p>	
6	<p><u>Draft Development Consent Order</u></p> <p>Schedule 16, Deemed Marine Licence, Part 2</p> <p>9. (1) Force majeure</p>	<p>The MMO maintains that this condition should be removed.</p>	<p>The MMO has fundamental issues with the inclusion of the Condition in relation to enforcement and liability issues. Force Majeure is not something that the MMO would include in standalone marine licences.</p> <p>The MMO does not consider provisions on Force Majeure to be necessary as Section 86 MCAA 2009 provides a defence for action taken in an emergency in breach of any licence conditions. The defence under Section 86 of MCAA has two limbs, and in the event that the undertaker fails to notify the appropriate licensing authority, in this case the MMO, within a reasonable time of their actions (Section 86(2))</p>	<p>The MMO is in discussions with the Applicant regarding this and currently unsure on the likelihood of resolution.</p>

			<p>"matters") the defence cannot be relied upon in the event of any enforcement action.</p> <p>This condition should be removed.</p>	
7	<p><u>Draft Development Consent Order</u></p> <p>Schedule 16, Deemed Marine Licence, Part 2</p> <p><u>9. (2)</u> Force majeure</p>	<p>This stipulates unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained by the MMO.</p>	<p>The MMO notes that 9. (2) is covered under the dropped object procedure outlined in 8. (8). Therefore 9. (2) is not required and should be removed.</p>	<p>The MMO is in discussions with the Applicant regarding this and currently unsure on the likelihood of resolution.</p>

8	<p><u>Draft Development Consent Order</u></p> <p>Schedule 16, Deemed Marine Licence, Part 2</p> <p><u>12</u></p> <p><u>Maintenance</u></p>	<p>The MMO has reviewed the provisions set out in section 12 relating to maintenance activities. The MMO requests that those maintenance activities identified in 12. (2) should be expanded to include more information in particular, cable repairs.</p>	<p>The MMO requests that 12. (1) be amended to read: “The undertaker may at any time maintain, and carry out works of maintenance in connection with, the authorised development except to the extent that— (a) this licence provides otherwise; (b) it is likely to give rise to any materially new or materially different effects to those that have been assessed in the environmental statement or in any environmental information supplied under the 2017 EIA Regulations.”</p> <p>The MMO also notes that there is no provision within section 12 for cable inspection surveys, nor notification or reporting in place to inform relevant agencies or bodies that activities are being carried out. The MMO requests this be included.</p> <p>The MMO also requests that regular maintenance reports be submitted post construction and requests that a separate section “Post consent monitoring” be included within the DML which states: “1) An annual maintenance report must be submitted</p>	<p>The MMO is currently in discussions with the Applicant regarding maintenance and we hope to come to an agreement prior to the end of examination.</p>
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			<p>to the MMO in writing within one month following the first anniversary of the date of commencement of operation of the authorised project, and within one month of every subsequent anniversary until the permanent cessation of operation of the authorised project.</p> <p>(2) Each report to which sub-paragraph (1) refers must, unless otherwise agreed in writing with the MMO, provide a record of the licensed activities carried out during the preceding year, the timing of those activities and a summary of the methodologies used in relation to them.</p> <p>(3) Within one month following every fifth anniversary of the date of commencement of operation of the authorised project, the undertaker must submit to the MMO a consolidated maintenance report, which—</p> <p>(a) includes a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with sub-paragraph (2);</p> <p>(b) reconfirms the suitability of the methodologies and frequencies of the licensable activities permitted by this</p>	
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			licence for the remaining duration of this licence.”	
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