



## Decision Report

### Installation and operation of Nemo Link Interconnector

#### **National Grid Nemo Link Limited: Application for a Marine Licence to install and operate a 1000 megawatt submarine interconnector between England and Belgium.**

### 1. Legislative and policy context

National Grid Nemo Link Limited (NGNLL) applied to the Marine Management Organisation (MMO) on 21 February 2013 under Section 66 of the Marine and Coastal Access Act 2009 (MCAA) for a marine licence for the construction and operation of an international submarine interconnector cable between mean high water springs (MHWS) at Pegwell Bay, Kent and the English territorial waters limit (12nm). The application also sought permission for the dredge and disposal of seabed material at three locations between MHWS at Pegwell Bay, Kent and the UK / France median line and cable armouring at one cable crossing.

NGNLL submitted Supplementary Environmental Information (SEI) in supporting of their application for consent on 23 August 2013, titled Nemo Link Effect on Integrity of European Nature Conservation Interests, Applicant's Submission.

The Nemo Link Interconnector (the Project) is exempt from the requirements of Section 66 of the MCAA within the continental shelf (12nm to the UK / France median line) under Section 81 of the MCAA, which states Part 4 of the MCAA (including Section 66) does not apply to laying or maintaining an offshore stretch of exempted submarine cable.

The MMO must grant any application made to it for a marine licence for a licensable marine activity in the course of laying any inshore stretch of the cable under Section 81(2) MCAA but may attach condition to the marine licence as appropriate.

NGNLL also submitted applications to Thanet District Council (TDC) and Dover District Council (DDC) under the Town and Country Planning Act 1990 for the Project from mean low water at Pegwell Bay, Kent to the former Richborough Power Station, Kent. The planning application was approved by TDC's Planning Committee on Wednesday 19 December 2013.

NGNLL submitted a joint screening and scoping opinion to the MMO on 19 October 2010. On 17 December 2010 the MMO screened the Project out of the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) (MWR) as it did not fall under Annex II 10(c) of the MWR.



The UK Marine Policy Statement (MPS) supports the development of offshore electricity networks as the UK diversifies its electricity generation. Section 3.3.28 of the MPS supports the development of submarine interconnectors as the import and export of electricity becomes increasingly important to ensuring the UK continues to have a secure and stable energy supply.

The Project has been identified as a Project of Common Interest (PCI) by the European Commission. A new permitting process for a PCI was introduced under Regulation (EU) no 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure. The Nemo Link Interconnector application is not subject to the new permitting process as the application was submitted prior to 16 November 2013, as per the transitional provisions within Article 19 of Regulation (EU) no 347/2013.

## **2. Evidence submitted in support of the application**

The following information has been considered;

- Nemo Link UK Marine Environmental Statement and Figures, dated February 2013;
- Nemo Link UK Marine Environmental Statement Volume II Technical Appendix, dated February 2013;
- Nemo Link UK Marine Non-Technical Summary, dated February 2013; and
- Nemo Link Effect on Integrity of European Nature Conservation Interests, Applicant's Submission (Supplementary Environmental Information (SEI)), dated August 2013.

## **3. Summary of consultation**

### **3.1 Consulted**

The following have been consulted on the application and SEI:

Belgian Federal Public Service, Health, Food Chain Safety and Environment (BFP SHFCSE); Broadstairs Harbour; British Marine Aggregate Producers Association (BMAPA); Chamber of Shipping; Crown Estate; Department for Business Innovation and Skills; Department of Energy and Climate Change (DECC); Dover District Council; Dover Harbour; Environment Agency (EA); English Heritage (EH); Folkstone Harbour; Harwich Harbour Authority; Kent & Essex Inshore Fisheries and Conservation Authority (KEIFCA); Harwich International Port Limited; Joint Nature Conservation Committee (JNCC); Kent Wildlife Trust; Margate Harbour; Maritime and Coastguard Agency (MCA); Ministry of Defence (MoD); National Federation of Fishermen's Organisations (NFFO); Natural England (NE); New Under Ten Fishermen's Association (NUTFA); Ofcom; Office of the French Minister of Foreign Affairs; Port of London; Préfecture Maritime de la Manche et de la Mer du Nord; Ramsgate Harbour; Royal Belgian Institute of Natural Sciences Management United of the North Sea; Royal Society for the Protection of Birds (RSPB);

Royal Yachting Association (RYA); Sandwich Port and Haven Commissioners; Subsea Cables UK; Thanet District Council (TDC); Thanet Local Fishermen's Association; Thanet Offshore Wind Limited; and Trinity House.

### **3.2 Public notices**

The application and ES was advertised in the following publications:

- Fishing News on 24 May 2013 and 31 May 2013;
- Thanet Extra on 22 May 2013 and 29 May 2013; and
- Thanet Gazette on 24 May 2013 and 31 May 2013.

The SEI was advertised in the following publications:

- Fishing News on 27 September 2013 and 4 October 2013;
- Thanet Extra on 25 September 2013 and 2 October 2013; and
- Thanet Gazette on 27 September 2013 and 22 October 2013

## **4. Representations Received**

### **Centre for Environment Fisheries and Aquaculture Science (Cefas)**

*Application Response:* Cefas highlighted concerns in relation to the impact of the proposed development on sandeel and herring spawning and nursery grounds. However, Cefas highlighted that mitigation to secure a timing restriction between November and January would adequately address their concerns. Cefas also requested a condition to ensure works avoid any areas of *Sabellaria spinulosa* reef.

Cefas also recommended a number of marine licence condition to secure protection of the marine environment, including requirements for any rock lost to be reported to the MMO, any treatments and coatings to be used in accordance with best environmental practice, the installation of bunding to prevent hazardous or toxic releases into the marine environment, reporting protocols for any chemical spills and the removal of any temporary objects upon the completion of the works.

*SEI Response:* Cefas advised that the SEI is appropriate for detailing inter-tidal cable lay operations but deferred to NE regarding the conclusions and magnitude of impacts associated with designated features.

Cefas provided a further response to the MMO on 25 November 2013 stating they have no objection to the locations of the disposal sites being within the assessed cable corridor and that they are content that disposal sites can be designated for the purposes of this application.

*MMO Response:* Marine licence conditions have been included to secure a herring and sandeel spawning restriction between November and January of any given year. A condition is also included to secure an Annex 1 survey to ensure cable installation is micro-sited away from any areas of Annex 1 habitat. Conditions in relation to coatings, bunding, marine pollution and temporary objects are also included within the marine licence.

## **English Heritage**

*Application Response:* EH responded to state that they accept the information provided within the ES and requested a number of conditions to secure archaeological exclusion zones; a Written Scheme of Investigation; and reporting protocols.

*SEI Response:* EH reiterated the comments provided during the consultation on the initial application.

*MMO Response:* EH concerns have been addressed through the inclusion of marine licence conditions.

## **Environment Agency**

*Application Response:* EA advised that they were satisfied that the risks of the proposed development to Water Framework Directive (WFD) status were relatively small and that the proposed development is WFD compliant. EA requested that monitoring of shellfish waters should be undertaken in relation to the suspension of sediments.

*SEI Response:* EA raised concerns in relation to biodiversity and requested further information in relation to grab sampling and *Sabellaris spinulosa* reef. The EA withdrew this comment on 4 November 2013.

EA highlighted that the WFD assessment presented has not fully addressed impacts to coastal and transitional water bodies. The EA requested that conditions be included to secure a monitoring programme to cover sediment monitoring to determine any underlying sewage contamination prior and during the proposed trenching campaign. EA also requested microbiological samples were taken within the water column before and during trenching operations.

*MMO Response:* The advice from the EA has been considered, and in particular the request for the inclusion within the marine licence for monitoring of potential sewage contamination to be conducted. It is acknowledged by the EA that the risk of any impacts is sufficiently small. When considered in conjunction with impacts and monitoring requirements of previous cable installation activities in Pegwell Bay (e.g. Thanet Offshore Wind Farm export cable installation and remediation works) and section 3.3.30 of the MPS, it is considered that the inclusion of the monitoring requirements as part of the marine licence is not necessary or proportional. However, should further information be provided or become available further monitoring requirements may be considered at a later date.

## **Kent Wildlife Trust (KWT), National Trust(NT) and RSPB joint response**

*Application Response:* KWT, NT and RSPB objected to the application as the route selected is not the least environmentally damaging option, dredging and disposal could lead to changes in coastal processes and sediment transport patterns which may impact common seal, grey seal and bird foraging ranges and, the disposal of sand may lead to smothering of spawning and nursery grounds.

They also advised that the baseline information within the application in relation to the intertidal zone was not adequate to inform the Habitats Regulations Assessment (HRA)

process. The baseline evidence to support impacts on Annex 1 habitats was not adequate and thus impacts cannot be fully assessed. KWT, NT, and RSPB were also concerned regarding the assessment undertaken to assess the overall impacts of the Nemo Link project, included the proposed onward connection from Richborough Power Station to Canterbury, which is to be subject to a separate application to the Planning Inspectorate for Development Consent under the Planning Act 2008.

*SEI Response:* Further information regarding the impacts to the intertidal area was provided by NGNLL in the SEI but KWT, NT and RSPB maintained an objection to the application on the basis that the route selected is not the least environmentally damaging option. KWT, NT and RSPB also raised concerns in relation to the simplification of sediments, compaction and impact on benthic communities, impacts on invertebrates, saltmarsh habitat loss, siltation and bird disturbance. The KWT, NT and RSPB response also highlighted several areas of concerns above MHWS, which have been considered under by TDC under the Town and Country Planning Act 2990.

*MMO Response:* NGNLL presented options and alternatives within Section 2.2 of the ES. The ES provides an analysis of why this cable corridor was chosen on the grounds of commercial, technical and environmental considerations. The MMO has considered the objection and concludes that the information and analysis presented in the ES is sufficiently robust to allow consent to be granted.

We are content that the appropriate assessment (AA) (see section 5) has adequately assessed the potential impacts to features of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Special Site of Scientific Interest (SSSI) within the intertidal zone. Marine licence conditions include saltmarsh monitoring and reinstatement plan, a Construction Environmental Management Plan, a seasonal restriction from 1 October– 31 March of any given year to avoid disturbance on the overwintering bird features of the SPA, a breeding bird mitigation plan and an Annex 1 survey to ensure cable installation is micro-sited away from any areas of Annex 1 habitat.

### **Kent and Essex Inshore Fisheries and Conservation Authority (KEIFCA)**

*Application Response:* KEIFCA highlighted sensitivities on the benthic environment within Pegwell Bay, Kent and recommended that NE be consulted on the application. KEIFCA also highlighted active fishing grounds in the vicinity of the proposed development and requested that Notices to Mariners should be issued in a timely fashion, that all vessels comply with COLREGS and that the use of rock armouring should be kept to a minimum.

*SEI Response:* No response received.

*MMO Response:* NE was consulted throughout the application processes. TDC has undertaken an AA in relation to the saltmarsh and mudflat supporting features of the Thanet Coast and Sandwich Bay SPA which concludes no adverse effect on the integrity of the site, and marine licence conditions are also included to mitigate potential impacts and to monitor the effectiveness of such mitigation.

Rock armouring will only be undertaken at one cable crossing location, and the final methodology must be approved by the MMO. Adequate provisions are also included in the marine licence for informing sea users of the works including the issue of Notice to Mariners. Although a condition to comply with COLREGS is not necessary, the licence

holder will be reminded of their obligations under other legislation.

## **Natural England and JNCC**

*Application Response:* NE advised that further information and analysis was required to enable a full assessment of the application. NE's main concerns were identified as:

Dredging and disposal of sand – NE requested further assessment in relation to the disposal of sand in relation to smothering of Annex I habitats.

Annex I *Sabellaria spinulosa* reef – concerns were highlighted in relation to the assessment of impacts presented within the ES and clarification requested.

Habitats Regulations Assessment – NE advised the proposal, as submitted, is likely to have a significant effect on the interest features of the Thanet Coast and Sandwich Bay SPA and Ramsar site. NE requested further information in relation to the proposed installation method within the saltmarsh and mudflats, saltmarsh reinstatement, a review of monitoring data from the Thanet Offshore Wind Farm export cable route; detail on post cable installation monitoring strategy; and clarity as to the exact size and location of the transition joint pit.

Overwintering birds – NE requested a condition be included within any consent to state that no works within the intertidal zone will take place between October and March of any given year to protect the overwintering bird interest features of the Thanet Coast and Sandwich Bay SPA.

Ramsar invertebrates – NE highlighted a number of rare invertebrate species likely to be present within the intertidal zone and that such species would not usually be picked up in a general invertebrate survey. NE requested that habitats features were to be mapped and their impact assessed and mitigation proposed if necessary.

*SEI Response:* NE advised that the proposed works will not hinder the conservation objectives of the Thanet Coast Marine Conservation Zone (MCZ).

NE advised that the MMO, as competent authority, should undertake an AA under the The Conservation of Habitats and Species Regulations 2010 (as amended) and The Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2007 (as amended) as it cannot be excluded that the application will have significant effects on the Thanet Coast and Sandwich Bay SPA and Ramsar site due to the risk of potential impacts on saltmarsh and mudflat habitat.

*MMO Response:* TDC has conducted an AA under The Conservation of Habitats and Species Regulations 2010 (as amended) and concluded that the project will not have an adverse effect on the integrity of the Thanet Coast and Sandwich Bay SPA. NE were consulted on the AA and responded to TDC on 19 December 2013 stating that they concur with the AA conclusions provided that all mitigation measures are secured in the appropriate consents specifically to secure invertebrate monitoring, to avoid Annex I habitat, and to avoid intertidal works between October and March of any given year have been included in the marine licence.

## **Maritime and Coastguard Agency (MCA)**

*Application Response:* The MCA confirmed that the proposed works were unlikely to have an adverse impact in regards to safety of navigation. The MCA requested a number of licence condition to secure navigational safety, including a study to establish electromagnetic compass deviation in relation to ship compasses and other navigation system.

*SEI Response:* MCA advised no change since their initial response on the application.

*MMO Response:* Navigational safety requirements are secured through marine licence conditions. The licence holder will also be reminded of navigational safety requirements under other legislation. Electromagnetic field compass deviation cannot be provided until the full technical specification of the proposed cables is known, this information will be provided within the Construction Methodology and Cable Burial Management and Installation Plan, which must be approved by the MMO prior to the commencement of the proposed development. The MMO will consult the MCA on the within the Construction Methodology and Cable Burial Management and Installation Plan.

## **Trinity House**

*Application Response:* TH advised that the burial depth of the cable should be at least 1 metre below seabed level and that if cable protection works are required a further consultation processes should be undertaken. TH advised the MMO consult Sandwich Port and Haven Commissioners.

*SEI Response:* TH advised no additional comments since their initial response on the application

*MMO Response:* Cable burial depth must be included in the Construction Methodology and Cable Burial Management and Installation Plan, which must be approved by the MMO prior to the commencement of the proposed development. This application only includes cable protection at one cable crossing location, if any further cable protection is required NGNLL must submit a new marine licence application to the MMO for the works.

## **Sandwich Port and Haven Commissioners**

*Application Response:* Sandwich Port and Haven Commissioners requested that the cable be buried to a minimum depth of 1 metre below seabed level and requested the cable route be marked by lit buoy and beacon.

*SEI Response:* Following a meeting with NGNLL on 29 October 2013, Sandwich Port and Haven Commissioners withdrew their initial comments on the application.

*MMO Response:* All concerns raised by Sandwich Port and Haven Commissioners have now been addressed.

## **Other Responses**

Belgian Federal Public Service, Health, Food Chain Safety and Environment; The Crown Estate; Préfecture Maritime de la Manche et de la Mer du Nord; and the Royal Yachting

Association responded to consultation stating they had no comment to make.

## **Public Consultation**

One member of the public responded to the consultation objecting to the project on the grounds that fishing grounds are being destroyed within the south east region and that the use of rock protection further reduce the area available for fishing.

*MMO Response:* The application included an assessment of fishing activity within the vicinity of the proposed development and in combination with other offshore installations in the area. The MMO agrees with the conclusions of the assessment the impact of the proposed development on the fishing industry will be limited.

## **4. Marine Conservation Zone**

The proposed development is approximately 1.5 kilometres to south of the Thanet Coast MCZ. The Thanet Coast MCZ contains examples of a variety of features found within the south east region, including an area of subtidal chalk and *Lucernariopsis cruxmelitensis* stalked jellyfish.

The MMO screened the proposed development out from being capable of significantly either the protected features of the MCZ or any ecological or geomorphological processes on which conservation of protected features of the MCZ is wholly or in part dependant.

NE advised the MMO, on 18 October 2013, that they believe the proposed development will not hinder the objectives of the Thanet Coast MCZ so long as they are undertaken in accordance with the application submitted by NGNLL.

## **5. Habitats Regulation Assessment**

### **5.1 Background**

Under regulation 61 of The Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations)(SI No 2010/490) in accordance with the EC Habitats Directive (Council Directive 92/43/EC) and EC Birds Directive (Council Directive 2009/147/EC) the MMO, as a competent authority must be satisfied that the project will not cause an adverse effect to the integrity of any European site before it can grant permission for the project.

TDC has undertaken a Habitats Regulations Assessment under Habitats Regulations in order to be satisfied that the project will not cause an adverse effect on the integrity of any European designed site.

### **5.2 Likely Significant Effect Test**

In December 2013, TDC concluded that the project may have a Likely Significant Effect (LSE) on the following features of the Thanet Coast and Sandwich Bay SPA and Thanet Coast and Sandwich Bay SSSI.

## Thanet Coast and Sandwich Bay SSSI

- Ramsar Criterion 2: Supporting 15 British Red Data Wetland invertebrates; and
- Ramsar Criterion 6: Supporting wintering Ruddy Turnstone (*Arenaria interpres*) occurring at levels of international importance.

## Thanet Coast and Sandwich Bay SPA

- Supporting populations of international importance of the following European golden plover (*Pluvialis apronaria*) and Ruddy Turnstone (*Arenaria interpres*).

Therefore an ASA was required in order to determine whether there is potential for an adverse effect upon the integrity of the Thanet Coast and Sandwich Bay SSSI and the Thanet Coast and Sandwich Bay SPA.

### 5.3 Appropriate Assessment

The AA conducted by TDC considered the potential for an adverse effect upon the integrity of the Thanet Coast and Sandwich Bay SSSI and Thanet Coast and Sandwich Bay SPA to the above named features from:

- Temporary damage and loss of supporting saltmarsh and mudflat habitat; and
- Disturbance and/or displacement of internationally important populations of Ruddy Turnstone and Golder plover.

The TDC AA concluded that there will be no adverse effects on the integrity of the Thanet Coast and Sandwich Bay SSSI or Thanet Coast and Sandwich Bay SPA, either as a result of the Project alone or in combination with other plans or projects, subject to the following mitigation being included in the appropriate consents;

- No works to be undertaken between 1 October and 31 October of any given year;
- Submission, and approval of, a detailed cable burial plan (including contingency plan and saltmarsh mitigation, reinstatement and monitoring plan); and
- Removal of Red Data invertebrates, food sources and debris.

NE were consulted on the AA and responded to TDC on 19 December 2013 stating that they concur with the AA conclusions provided that all mitigation measures are secured in the appropriate consents.

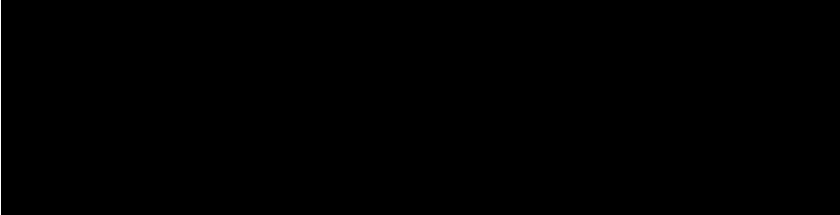
Based on the information contained within the TDC AA (December 2013), the applicant's SEI titled 'Integrity of European Nature Conservation Interests, Applicant's Submission', mitigation applied within marine licence L/2013/00373 and other documents and correspondence associated with the case, the MMO (as a competent authority) conclude that the proposal will have no adverse effect on the integrity of either the Thanet Coast and Sandwich Bay SSSI or Thanet Coast and Sandwich Bay SPA.

## 7. Decision

The MMO have considered the information provided by the applicant including the ES and SEI, the representations and consultation responses received, and the conclusions of the

AA conducted by TDC. Following careful consideration, the MMO are content to grant a marine licence for the Nemo Interconnector Project.

Signed



Marine Licensing Case Officer (Offshore)  
23 December 2013