

MORGAN AND MORECAMBE OFFSHORE WIND FARMS: TRANSMISSION ASSETS

Explanatory Memorandum



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Contents

1	EXPLANATORY MEMORANDUM	1
1.1	Introduction and summary.....	1
1.2	Purpose of the order	1
1.3	Construction scenarios.....	2
1.4	The authorised project	3
1.4.1	The authorised development	3
1.4.2	The ‘centreline’ approach and ‘overlapping’ works areas	4
1.4.3	Associated development.....	6
1.5	Ancillary matters.....	7
1.6	The draft order.....	7
1.6.2	Part 1 – Preliminary	11
	<i>Article 1 – Citation and commencement</i>	<i>11</i>
	<i>Article 2 – Interpretation</i>	<i>11</i>
1.6.3	Part 2 – Principal Powers	13
	<i>Article 3 – Development consent etc. granted by the Order</i>	<i>13</i>
	<i>Article 4 – Deemed marine licences under the 2009 Act</i>	<i>14</i>
	<i>Article 5 – Power to maintain the authorised project.....</i>	<i>14</i>
	<i>Article 6 - Benefit of the Order.....</i>	<i>14</i>
	<i>Article 7 - Application and modification of legislative provisions</i>	<i>16</i>
	<i>Article 8 - Defence to proceedings in respect of statutory nuisance</i>	<i>17</i>
1.6.4	Part 3 Streets	19
	<i>Article 9 – Street works</i>	<i>19</i>
	<i>Article 10 – Power to alter layout etc. of streets.....</i>	<i>19</i>
	<i>Article 11 – Application of the 1991 Act</i>	<i>19</i>
	<i>Article 12 – Temporary closure of public rights of way</i>	<i>20</i>
	<i>Article 13 – Temporary restriction of use of streets</i>	<i>20</i>
	<i>Article 14 – Access to works</i>	<i>21</i>
	<i>Article 15 – Agreements with street authorities.....</i>	<i>22</i>
1.6.5	Part 4 – Supplemental powers.....	22
	<i>Article 16 – Discharge of water</i>	<i>22</i>
	<i>Article 17 - Authority to survey and investigate the land</i>	<i>23</i>
	<i>Article 18 – Protective work to buildings</i>	<i>24</i>
	<i>Article 19 - Removal of human remains</i>	<i>24</i>
1.6.6	Part 5 - Powers of Acquisition.....	25
	<i>Article 20 - Compulsory acquisition of land.....</i>	<i>25</i>
	<i>Article 21 - Time limit for exercise of authority to acquire land compulsorily</i>	<i>26</i>
	<i>Article 22 - Compulsory acquisition of rights</i>	<i>27</i>
	<i>Article 23 – Compulsory acquisition of land: minerals</i>	<i>28</i>
	<i>Article 24 - Private rights</i>	<i>28</i>
	<i>Article 25 – Application of the 1981 Act</i>	<i>29</i>
	<i>Article 26 - Acquisition of subsoil only.....</i>	<i>30</i>
	<i>Article 27 – Modification of Part 1 of the 1965 Act</i>	<i>30</i>
	<i>Article 28 - Rights under or over streets</i>	<i>30</i>
	<i>Article 29 - Temporary use of land for carrying out the authorised project</i>	<i>31</i>
	<i>Article 30 - Temporary use of land for maintaining the authorised project</i>	<i>32</i>
	<i>Article 31 - Statutory undertakers.....</i>	<i>33</i>

Article 32 - Recovery of costs of new connections	33
Article 33 – Funding	34
1.6.7 Part 6 - Miscellaneous and General	34
Article 34 – Application of landlord and tenant law	34
Article 35 - Felling or lopping of trees and removal of hedgerows	35
Article 36 - Trees subject to tree preservation orders	35
Article 37 - Abatement of works abandoned or decayed	35
Article 38 - Saving provisions for Trinity House	36
Article 39 - Crown rights	36
Article 40 – Protective provisions	36
Article 41 - Operational land for the purposes of the 1990 Act	36
Article 42 – Certification of plans and documents, etc.	37
Article 43 - Service of notices	37
Article 44 – No double recovery	37
Article 45 - Requirements, appeals, etc.	37
Article 46 - Arbitration	38
Article 47 - Inconsistent planning permissions	38
1.7 Schedules	39
1.7.1 Schedule 1 – Authorised Project	39
1.7.2 Schedule 2A	39
Requirements - Project A	39
1.7.3 Schedule 2B	44
Requirements - Project B	44
Schedule 3A – Streets subject to street works – Project A	44
Schedule 3B – Streets subject to street works – Project B	45
Schedule 4A – Streets to be temporarily closed or restricted – Project A	45
Schedule 4B – Streets to be temporarily closed or restricted – Project B	45
Schedule 5A – Public rights of way to be temporarily closed or restricted – Project A	45
Schedule 5B – Public rights of way to be temporarily closed or restricted – Project B	46
Schedule 6A – Access to works – Project A	46
Schedule 6B – Access to works – Project B	46
Schedule 7A – Land of which only temporary possession may be taken – Project A	46
Schedule 7B – Land of which only temporary possession may be taken – Project B	47
Schedule 8A - Land in which only new rights etc. may be acquired – Project A	47
Schedule 8B - Land in which only new rights etc. may be acquired – Project B	47
Schedule 9 – Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictions	47
Schedule 10 – Protective provisions	47
Schedule 11A – Removal of hedgerows – Project A	48
Schedule 11B – Removal of hedgerows – Project B	49
Schedule 12 – Approval of matters specified in requirements	49
Schedule 13 – Arbitration Rules	50
Schedule 14 – Marine Licence 1: Morgan Offshore Wind Project: Transmission Assets	51
Schedule 15 – Marine Licence 2: Morecambe Offshore Windfarm: Transmission Assets	55
Schedule 16 – Marine Licence 3: Morgan Offshore Wind Project: Transmission Assets – River Ribble	56
Schedule 17 – Marine Licence 4: Morecambe Offshore Windfarm: Transmission Assets – River Ribble	58
Schedule 18 – Documents to be certified	58
ANNEX 1	68

REQUIREMENTS – TABLE OF DIVERGENCE	68
ANNEX 2	70
OFFSHORE AND INTERTIDAL DEEMED MARINE LICENCES – TABLES OF DIVERGENCE	70
ANNEX 3	73
RIVER RIBBLE DEEMED MARINE LICENCES – TABLE OF DIVERGENCE.....	73

Glossary

Term	Guidance
400 kV grid connection cables	Cables that will connect the proposed onshore substations to the existing National Grid Penwortham substation.
Bathymetry	A measurement of the depth of water in the ocean.
Biodiversity benefit	An approach to development that leaves biodiversity in a better state than before. Where a development has an impact on biodiversity, developers are encouraged to provide an increase in appropriate natural habitat and ecological features over and above that being affected. For the Transmission Assets, biodiversity benefit will be delivered within identified biodiversity benefit areas within the Onshore Order Limits. Further qualitative benefits to biodiversity are proposed via potential collaboration with stakeholders and local groups, contributing to existing plans and programmes, both within and outside the Order Limits.
Code of Construction Practice	A document detailing the overarching principles of construction, contractor protocols, construction-related environmental management measures, pollution prevention measures, the selection of appropriate construction techniques and monitoring processes.
Commitment	This term is used interchangeably with mitigation and enhancement measures. The purpose of commitments is to avoid, prevent, reduce or, if possible, offset significant adverse environmental effects. Primary and tertiary commitments are taken into account and embedded within the assessment set out in this Environmental Statement. Secondary commitments are incorporated to reduce effects to environmentally acceptable levels following initial assessment.
Construction Traffic Management Plan	A document detailing the construction traffic routes for heavy goods vehicles and personnel travel, protocols for delivery of Abnormal Indivisible Loads to site, measures for road cleaning and sustainable site travel measures.
Development Consent Order	An order made under the Planning Act 2008 granting development consent.
Direct pipe	A cable installation technique which involves the use of a mini (or micro) tunnel boring machine and a hydraulic (or other) thruster rig to directly install a steel pipe between two points.
Dust	Solid particles suspended in air or settled out onto a surface after having been suspended in air, as defined by the Institute of Air Quality Management.
Effect	The term used to express the consequence of an impact. The significance of effect is determined by correlating magnitude of the impact with the importance, or sensitivity, of the receptor or resource in accordance with defined significance criteria.
Energy balancing infrastructure	The onshore substations include energy balancing infrastructure. These provide valuable services to the electrical grid, such as storing energy to meet periods of peak demand and improving overall reliability

Term	Guidance
Environmental Impact Assessment	The process of identifying and assessing the significant effects likely to arise from a project. This requires consideration of the likely changes to the environment, where these arise as a consequence of a project, through comparison with the existing and projected future baseline conditions.
Environmental Statement	The document presenting the results of the Environmental Impact Assessment process.
European Protected Species	Species (such as bats, great crested newts, otters and dormice) which receive full protection under The Conservation of Species and Habitats Regulations 2017 and Conservation of Offshore Marine Habitats and Species Regulations 2017.
Export cable corridor	The specific corridor of seabed (seaward of Mean High Water Springs and land (landward of Mean High Water Springs) from the generation assets to the National Grid Penwortham substation.
Generation Assets	The generation assets associated with the Morgan Offshore Wind Project and the Morecambe Offshore Windfarm include the offshore wind turbines, inter-array cables, offshore substation platforms and platform link (interconnector) cables to connect offshore substations.
Habitats Regulations	The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended)
Impact	Change that is caused by an action/proposed development, e.g., land clearing (action) during construction which results in habitat loss (impact).
Landfall	The area in which the offshore export cables make landfall (come on shore) and the transitional area between the offshore cabling and the onshore cabling. This term applies to the entire landfall area at Lytham St. Annes between Mean Low Water Springs and the transition joint bay inclusive of all construction works, including the offshore and onshore cable routes, intertidal working area and landfall compound(s).
Local Authority	A body empowered by law to exercise various statutory functions for a particular area of the United Kingdom. This includes County Councils, District Councils and County Borough Councils.
Marine licence	The Marine and Coastal Access Act 2009 requires a marine licence to be obtained for licensable marine activities. Section 149A of the Planning Act 2008 allows an applicant for to apply for 'deemed marine licences' in English waters as part of the development consent process.
Maximum design scenario	The realistic worst case scenario, selected on a topic-specific and impact specific basis, from a range of potential parameters for the Transmission Assets.
Mean High Water Springs	The highest level which tides reach on average over a period of time.
Mean Low Water Springs	The lowest level which tides reach on average over a period of time.
Micro-tunnel	A tunnelling technique involving the use of a hydraulic (or other) jacking rig and a mini (or micro) tunnel boring machine to install a concrete tunnel between two points.

Term	Guidance
Mitigation measures	This term is used interchangeably with Commitments. The purpose of such measures is to avoid, prevent, reduce or, if possible, offset significant adverse environmental effects.
Morecambe Offshore Windfarm: Generation Assets	The offshore generation assets and associated activities for the Morecambe Offshore Windfarm.
Morecambe Offshore Windfarm: Transmission Assets	The offshore export cables, landfall and onshore infrastructure required to connect the Morecambe Offshore Windfarm to the National Grid.
Morecambe OWL	Morecambe Offshore Windfarm Limited is a joint venture between Zero-E Offshore Wind S.L.U. (Spain) (a Cobra group company) (Cobra) and Flotation Energy Ltd.
Morgan and Morecambe Offshore Wind Farms: Transmission Assets	The offshore and onshore infrastructure connecting the Morgan Offshore Wind Project and the Morecambe Offshore Windfarm to the national grid. This includes the offshore export cables, landfall site, onshore export cables, onshore substations, 400 kV grid connection cables and associated grid connection infrastructure such as circuit breaker compounds. Also referred to in this report as the Transmission Assets, for ease of reading.
Morgan Offshore Wind Project: Generation Assets	The offshore generation assets and associated activities for the Morgan Offshore Wind Project.
Morgan Offshore Wind Project: Transmission Assets	The offshore export cables, landfall and onshore infrastructure required to connect the Morgan Offshore Wind Project to the National Grid.
Morgan OWL	Morgan Offshore Wind Limited is a joint venture between bp Alternative Energy investments Ltd. and Energie Baden-Württemberg AG (EnBW).
National Grid Penwortham substation	The existing National Grid substation at Penwortham, Lancashire.
National Policy Statement(s)	The current national policy statements published by the Department for Energy Security and Net Zero in 2023 and adopted in 2024.
Offshore export cables	The cables which would bring electricity from the generation assets to the landfall.
Onshore export cables	The cables which would bring electricity from the landfall to the onshore substations.
Onshore export cable corridor	The corridor within which the onshore export cables will be located.
Onshore Order Limits	See Transmission Assets Order Limits: Onshore (below).
Onshore substations	The onshore substations will include a substation for the Morgan Offshore Wind Project: Transmission Assets and a substation for the Morecambe Offshore Windfarm: Transmission Assets. These will each comprise a compound containing the electrical components for transforming the power supplied from the generation assets to 400 kV and to adjust the power quality and power factor, as required to meet the UK Grid Code for supply to the National Grid.

Term	Guidance
Order limits	The limits within which the Transmission Assets may be carried out.
Planning Inspectorate	The agency responsible for operating the planning process for applications for development consent under the Planning Act 2008.
Policy	A set of decisions by governments and other political actors to influence, change, or frame a problem or issue that has been recognized as in the political realm by policy makers and/or the wider public.
Protected species	A species of animal or plant which it is forbidden by law to harm or destroy.
Renewable energy	Energy from a source that is not depleted when used, such as wind or solar power.
Substation	Part of an electrical transmission and distribution system. Substations transform voltage from high to low, or the reverse by means of electrical transformers.
The Secretary of State for Energy Security and Net Zero (the Secretary of State)	The decision maker with regards to the application for development consent for the Transmission Assets.
Transmission Assets	See Morgan and Morecambe Offshore Wind Farms: Transmission Assets (above)
Voltage	Voltage is the pressure from an electrical circuit's power source that pushes charged electrons (current) through a conducting loop.

Acronyms

Acronym	Meaning
CoCP	Code of Construction Practice
DCO	Development Consent Order
EA	Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
HNDR	Holistic Network Design Review
LGM	Last Glacial Maximum
LLFA	Lead Local Flood Authority
MCA	Maritime and Coastguard Agency
MHWS	Mean High Water Springs
MLWS	Mean Low Water Springs
MMO	Marine Management Organisation
Morecambe OWL	Morecambe Offshore Windfarm Limited
Morgan OWL	Morgan Offshore Wind Limited
NGESO	National Grid Electricity System Operator
NSIP	Nationally Significant Infrastructure Project
OTNR	Offshore Transmission Network Review
UK	United Kingdom
UKHO	UK Hydrographic Office
UXO	Unexploded Ordnance
WSI	Written Scheme of Investigation

1 Explanatory Memorandum

1.1 Introduction and summary

- 1.1.1.1 This memorandum explains the purpose and effect of each article of, and Schedule to, the draft Morgan Offshore Wind Project and Morecambe Offshore Windfarm: Transmission Assets Order (the Order), as required by Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009¹ (the APFP Regulations).
- 1.1.1.2 Regulation 5(2)(c) requires explanatory memoranda to explain “*the purpose and effect of provisions in the draft order*”.

1.2 Purpose of the Order

- 1.2.1.1 Morgan Offshore Wind Limited (Morgan OWL) and Morecambe Offshore Windfarm Limited (Morecambe OWL) are applying to the Secretary of State for Energy Security and Net Zero for a development consent order (DCO) (the Application) for the construction of two electrically independent transmission systems (referred to as Project A and Project B in the Order) connecting two nationally significant infrastructure projects (NSIPs) - the Morgan Offshore Wind Project: Generation Assets and the Morecambe Offshore Windfarm: Generation Assets – to the National Grid at Penwortham (the Generation Assets).
- 1.2.1.2 The authorised development and ancillary works (together the authorised project) are described in Part 1 (Authorised Development) and Part 2 (Ancillary Works) respectively of Schedule 1 of the Order. See also Article 2 (Interpretation).
- 1.2.1.3 The Generation Assets were scoped into the ‘Pathways to 2030’ workstream under the Offshore Transmission Network Review (OTNR). The OTNR’s aim was to consider, simplify, and wherever possible, facilitate a collaborative approach to offshore wind projects connecting to the National Grid.
- 1.2.1.4 Under the OTNR, the National Grid Electricity System Operator (NGESO) is responsible for assessing options to improve the coordination of offshore wind generation connections and transmission networks and undertook a Holistic Network Design Review (HNDR). In July 2022, the UK Government published the ‘Pathway to 2030 Holistic Network Design’ documents, which set out the approach to connecting 50 GW of offshore wind to the National Grid (NGESO, 2022). A key output of the HNDR process was the conclusion that Morgan OWL and Morecambe OWL should work collaboratively in connecting their two offshore wind farms to the National Grid electricity transmission network at Penwortham in Lancashire.

¹ S.I. 2009/2264

- 1.2.1.5 The transmission works that are the subject of this application could have been consented with their respective windfarms, but in order to deliver the objectives of the OTNR they are being consented in a single Order. As the transmission works themselves are not defined within the Planning Act 2008 (2008 Act) as an NSIP, an application was made to the Secretary of State for Business Energy and Industrial Strategy for a direction under section 35 of the 2008 Act. On 4 October 2022 the Secretary of State made a direction under section 35 confirming that the transmission works (both individually and together) require a DCO to authorise their construction and operation.
- 1.2.1.6 A detailed description of the authorised project is included in Volume 1, Chapter 3: Project Description of the Environmental Statement (document reference AS-024).
- 1.2.1.7 The Order also seeks to confer upon Morgan OWL and Morecambe OWL powers of compulsory acquisition of land or rights over land which are required for the onshore and intertidal elements of the authorised project or to facilitate them, or that are incidental to them within the meaning of section 122 of the 2008 Act.
- 1.2.1.8 As the Order seeks to apply and modify statutory provisions under section 120(5) of the 2008 Act including in relation to drainage, hedgerows and the compulsory acquisition of land, it has been drafted as a statutory instrument as required under section 117(4) of the 2008 Act.

1.3 Construction scenarios

- 1.3.1.1 As the Order consents two electrically independent projects and as the exact timings for construction for each of Project A and Project B is, at this stage, unknown due to the range of milestones and gates each project must pass through before commencing construction (see further section 3.3.2 of Volume 1, Chapter 3: Project Description of the Environmental Statement (document reference AS-024)), the Order allows for a range of construction scenarios. Three construction scenarios form part of the basis for the maximum design scenarios for the environmental impact assessment (EIA). These scenarios reflect the various approaches that could be taken to deliver the transmission works for both Project A and Project B.
- 1.3.1.2 The three construction scenarios are as follows:
- Scenario 1: In isolation
 - This scenario considers the construction of transmission assets for one project in isolation, assuming that the other project does not proceed. It includes:
 - Project A only – The construction of transmission assets exclusively for the Morgan Offshore Wind Project: Generation Assets.

- Project B only – The construction of transmission assets exclusively for the Morecambe Offshore Windfarm: Generation Assets.
- Scenario 2: Concurrent Construction
 - This scenario considers the simultaneous construction of the Transmission Assets for both Project A and Project B at the same time.
- Scenario 3: Sequential Construction
 - In this scenario, the construction of the Transmission Assets is carried out sequentially, where one project's transmission assets are completed before the other begins. The scenario is further subdivided into:
 - Immediate Sequential Construction – Where the second project's construction begins immediately after the first project's transmission assets are completed, with no delay.
 - Sequential Construction with a Gap – Where there is a gap of up to four years between the completion of the first project's transmission assets and the commencement of construction for the second project.

1.4 The authorised project

1.4.1 The authorised development

- 1.4.1.1 Schedule 1, Part 1 (Authorised Development) to the Order contains a list of numbered works comprising the authorised development. In summary these include the offshore export cables for each project, landfall works, the onshore cables, two onshore substations (one for each project) and works to connect the Transmission Assets to the National Grid transmission network at Penwortham.
- 1.4.1.2 To reflect the fact that the Order authorises transmission asset works for two electrically independent generation NSIPs, being the Morgan Offshore Wind Project: Generation Assets and the Morecambe Offshore Windfarm: Generation Assets, the numbered works have been split into Project A works and Project B works.
- 1.4.1.3 The Project A work numbers are the onshore, intertidal and offshore works for which Morgan OWL has development consent and compulsory acquisition powers.
- 1.4.1.4 The Project B work numbers are the onshore, intertidal and offshore works for which Morecambe OWL has development consent and compulsory acquisition powers.
- 1.4.1.5 The work descriptions for each project have been separated out in this way to reflect the fact that each project is owned by separate companies with

separate joint venture partners and as a result construction could come forward in a number of ways (as set out in Section 3 and in Volume 1, Chapter 3: Project Description Chapter of the Environmental Statement (document reference AS-024). The separation of the works descriptions into Project A works and Project B works facilitates and provides the necessary flexibility for the different ways in which Morgan OWL and Morecambe OWL could bring forward and construct their respective projects.

1.4.1.6 The Transmission Assets are essential to the delivery of almost 2GW of new renewable electricity capacity (up to 1.5GW for Morgan OWL and up to 480MW for Morecambe OWL). As set out in the Planning Statement (document reference APP-233), the Morgan Offshore Wind Project: Generation Assets and Morecambe Offshore Windfarm: Generation Assets are low carbon critical national priority (CNP) infrastructure under National Policy Statement EN-1, and the Transmission Assets are also considered to be CNP infrastructure. As a result, it is vital that Project A and Project B can be delivered independently of each other and that the DCO secures this.

1.4.1.7 The extent of each of the Project A works and Project B works are shown on 'the work plans' which include:

- works plans - offshore (document reference AS-018),
- works plans - onshore and intertidal (document references AS-016 and AS-017) and
- works plans - onshore and offshore (document references AS-014 and AS-015)

1.4.1.8 The works plans (document references AS-014 to AS-018) identify each project's cable corridor by reference to the Project A and Project B work numbers.

1.4.2 The 'centreline' approach and 'overlapping' works areas

1.4.2.1 The works plans (document references AS-014 to AS-018) have, where possible, adopted a 'centreline' approach. This approach involves identifying specific corridors for the infrastructure associated with each wind farm. The 'centreline' is not located in the centre of the route. Instead, it delineates and separates the areas required for each project, in accordance with the maximum design parameters for each project set out within Volume 1, Chapter 3: Project Description of the Environmental Statement (document reference AS-024).

1.4.2.2 As explained in Volume 1, Chapter 3: Project Description of the Environmental Statement (document reference AS-024), across the Order Limits, certain 'overlapping' works areas have been identified. In these locations, at this stage of the infrastructure design process, it has not been possible to adopt a 'centreline' approach. As a result, both Project A and Project B would have the ability to carry out their authorised project within these overlapping areas.

- 1.4.2.3 The overlapping permanent works areas, which may be utilised by both Project A and Project B, are set out in Volume 1, Chapter 3: Project Description of the Environmental Statement (document reference AS-024). In summary, these are as follows:
- a. Offshore (seaward of MLWS): Work Nos 2A and 2B to allow for the micro-siting of offshore export cables leading to the landfall.
 - b. Intertidal (between mean low water springs (MLWS) and mean high water springs (MHWS)): Work Nos. 4A and 4B to facilitate trenchless technology at landfall between the intertidal zone and the Transition Joint Bays (TJBs) to be located at Work Nos. 10A and 10B.
 - c. Onshore (landward of MHWS and Cable Corridor):
 - i. Onshore (landfall works - landward of MHWS): From Work Nos. 5A and 5B to 10A and 10B to allow for the micro-siting of both offshore and onshore export cables up to the TJBs.
 - ii. Onshore export cable corridor (Blackpool Airport and Blackpool Road Recreation Ground): Work Nos. 11A and 11B, 12A and 12B, 13A and 13B, 15A and 15B, 16A and 16B, 51A and 51B, 52A and 52B, 53A and 53B and 54A and 54B extending from east of the TJB to east of Queensway, to allow for the micro-siting of onshore export cables and associated areas.
 - iii. Onshore export cable corridor (south of the River Ribble Crossing): Work Nos. 30A and 30B, 31A and 31B, 32A and 32B and 37A and 37B to allow for the 400kV export cables for each offshore wind farm to cross the others, subject to the final confirmed connection into the National Grid substation. Here a centreline has been provided between Work Nos. (i) 30A and 30B and (ii) 31A and 31B based on the current assumed alignment for Morgan OWL and Morecambe OWL. However, should the projects need to cross each other, this has been accommodated within these overlapping works areas.
 - iv. Overlapping environmental mitigation area: Work Nos. 49A and 49B is needed to mitigate the impacts of construction, operation and maintenance, and decommissioning on intertidal waders at the cable landfall.
- 1.4.2.4 Within these overlapping permanent work areas, the specific areas required by Project A and Project B will be agreed post-consent, following further survey work and detailed design. This delineation will involve ongoing engagement with key stakeholders, including National Grid regarding the connection to Penwortham.
- 1.4.2.5 In addition to the above permanent overlap areas, permanent overlapping accesses (Work Nos. 34A and 34B, 41A and 41B, 46A and 46B, and 47A and 47B) are identified along the cable corridor where it has not been possible to identify separate accesses due to environmental, landowner or

engineering constraints (e.g. space requirements, traffic and transport visibility or landowner feedback).

1.4.2.6 The overlapping temporary work areas, which may be used by both Project A and Project B, are as follows:

- a. Offshore (seaward of MLWS) and intertidal (between MLWS and MHWS):
Work Nos. 3A and 3B will permit temporary construction and maintenance activities, such as vessel anchoring, associated with the installation and repair of offshore export cables.
- b. Onshore (landward of MHWS):
 - i. Temporary working area including construction compounds (Work Nos. 14A and 14B) associated with the permanent overlapping work areas at Blackpool Airport and Blackpool Road Recreation Ground.
 - ii. Temporary construction compound areas (Work Nos. 18A and 18B and 38A and 38B) associated with overlapping permanent work areas at landfall and the connection to Penwortham
 - iii. Temporary overlapping accesses at landfall (Work Nos. 7A and 7B), along the cable corridor (Work Nos. 19A and 19B, 36A and 36B, 40A and 40B, 42 A and 42B, 43A and 43B, and 45A and 45B) where separate access routes could not be established due to environmental, landowner, or engineering constraints.
 - iv. Temporary environmental mitigation areas (Work Nos. 35A and 35B) at Lytham Moss and Lea Marsh are required temporarily by both projects to mitigate the impacts of cable construction works.

1.4.2.7 Where possible, delineation of the ‘overlapping’ temporary work areas for each project will be finalised and agreed post-consent between Morgan OWL and Morecambe OWL as necessary. However, some of these overlapping temporary work areas may remain in place throughout the construction, operation, and maintenance phases.

1.4.3 Associated development

1.4.3.1 Guidance on associated development has been issued by the Secretary of State, ‘Guidance on associated development applications for major infrastructure projects’ (Department for Communities and Local Government, April 2013) (the Guidance). Paragraph 5 of the Guidance sets out core principles which must be taken into account by the Secretary of State when deciding whether or not development should be treated as associated development. In summary:

- a. There should be *“a direct relationship between associated development and the principal development.”*
- b. *“Associated development should therefore either support the construction or operation of the principal development, or help address its impacts.”*

- c. *“Associated development should not be an aim in itself but should be subordinate to the principal development.”*

- 1.4.3.2 In most cases therefore associated development will be *“typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project”* (paragraph 6 of the Guidance). In addition, the core principles in paragraph 5 of the Guidance also state that *“Associated development should be proportionate to the nature and scale of the principal development.”*
- 1.4.3.3 Details of associated development which is considered necessary for the delivery of the Transmission Assets are set out in Part 1 of Schedule 1 and include offshore activities such as cable protection measures and onshore activities such as works to alter the position of apparatus, including mains, sewers, drains and cables (overhead and underground).

1.5 Ancillary matters

- 1.5.1.1 The Order also authorises ancillary works within the Order limits. These are works that do not constitute development but are required to facilitate the construction of the authorised project.
- 1.5.1.2 Details of ancillary works are set out in Part 2 (Ancillary Works) of Schedule 1 and include onshore activities such as intrusive ground investigations including the making of boreholes and trial pits.
- 1.5.1.3 In addition to providing for the construction and operation of the authorised project, the Order will, in accordance with Part 7 of the 2008 Act, authorise the acquisition of land and rights over land, and the extinguishment of, or interference with, interests in or rights over land. The Book of Reference (document reference AS-011) sets out a description of the land and interests included in the Order. The Order and the Book of Reference should be read together with the Statement of Reasons (document reference AS-009) which accompanies the Application and sets out the justification for the acquisition of or interference with the Order land.
- 1.5.1.4 Other ancillary matters include the application and disapplication of legislation, the power to undertake works to streets, and the ability to take temporary possession of land.

1.6 The draft Order

- 1.6.1.1 The purpose and effect of the provisions of the Order are explained below in sequence. The Order is based on the model provisions set out in Schedule 1 to the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (the Model Provisions) as well as relevant precedents. Whilst the requirement under the 2008 Act to have regard to the Model Provisions has been removed and, as confirmed in the Planning Inspectorate’s Advice Note 15: drafting Development Consent Orders (July 2018), there is no longer a requirement to submit a tracked changed version of the Order against the

Model Provisions, it has been considered good practice based on advice previously contained in the Planning Inspectorate Advice Note 13 ‘Preparing the draft Order and Explanatory Memorandum’ (Planning Inspectorate, February 2019) (PINS Advice Note 13) to use the Model Provisions as a guide for drafting orders, rather than a rigid structure, as it aided consistency and assisted in drafting a comprehensive set of lawful provisions. PINS Advice Note 13 has now been superseded by the Planning Inspectorate’s ‘Advice on the Preparation and Submission of Application Documents’ (Planning Inspectorate, August 2024) which is silent on the use of the Model Provisions. However, the ‘Planning Act 2008 Guidance: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects’ (Ministry of Housing, Communities and Local Government and Department for Levelling Up, Housing and Communities, April 2024) confirms that there is ‘no need to include provisions in a draft DCO contained in the Model Provisions Order which are no longer relevant. The current approach to drafting a DCO is set out in this guidance supplemented by precedents from made DCOs in recent years and the Planning Inspectorate’s advice covering both the DCO and the accompanying EM’. The relevant PINS advice and the Guidance has been taken into account when preparing the Order.

- 1.6.1.2 The form of the Order has had regard to comparable precedent orders, in particular offshore wind farms, where it is considered that similar issues apply, so as to avoid developing drafting which the Secretary of State and interested parties would be unfamiliar with. The following orders have been particularly relevant for the reasons explained in Table 1.1 below and where appropriate, are referenced in relation to specific drafting points within the relevant sections below:

Table 1.1: Comparable Precedent Orders

Order	SI Number	Comments
The Rampion 2 Offshore Wind Farm Order 2025 (Rampion 2)	S.I. 2025/468	This is the most recent consented offshore wind farm DCO which is referenced to demonstrate the continued use of long-standing precedents (where applicable) for particular drafting, including in respect of transfer of benefit provisions.
Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024 (Sheringham and Dudgeon)	S.I. 2024/564	This is one of the most recently consented offshore wind farms. This development has similar considerations with regards to being a joint DCO with overlapping work areas, construction of multi-circuit underground onshore cables and includes separate offshore deemed marine licences for each project.
HyNet Carbon Dioxide Pipeline Order 2024 (Hynet)	S.I. 2024/436	This is a ‘linear project’ with similar considerations with regards to constructing a long corridor of

Order	SI Number	Comments
		underground works (in this case a carbon dioxide pipeline).
The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 (Drax Power Station DCO)	S.I. 2024/70	This is a recently consented energy DCO which has similar considerations with regards to consenting an onshore underground linear grid connection.
The Slough Multifuel Extension Order 2023 (Slough Multifuel DCO)	S.I. 2023/1278	This is a recently consented energy DCO which has similar considerations with regards to consenting an onshore underground linear grid connection.
Awel y Môr Offshore Wind Farm Order 2023 (Awel y Môr)	S.I.2023/1033	This is a recently consented offshore wind farm. This development has similar considerations with regards to constructing multi-circuit underground onshore cables.
Hornsea Project Four Offshore Wind Farm Order 2023 (Hornsea Four)	S.I. 2023/800	This is a recently consented offshore wind farm. This development has similar considerations with regards to constructing multi-circuit underground onshore cables and includes offshore deemed marine licences.
The A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (A428 Black Cat Order)	S.I. 2022/934	A linear road scheme which has similar considerations with regards to delivering linear onshore infrastructure and referenced in particular in relation to Article 19 (Removal of human remains).
East Anglia Two Offshore Wind Farm Order 2022 (East Anglia Two)	S.I. 2022/433	This is an offshore wind farm which is referenced to demonstrate the long-standing precedents (where applicable) for particular drafting. This development has similar considerations with regards to constructing multi-circuit underground onshore cables and includes offshore deemed marine licences.
East Anglia One North Offshore Wind Farm Order 2022 (East Anglia One North)	S.I. 2022/432	This is an offshore wind farm which is referenced to demonstrate the long-standing precedents (where applicable) for particular drafting. This development has similar considerations with regards to constructing multi-circuit underground onshore cables and includes offshore deemed marine licences.
The Norfolk Vanguard Offshore Wind Farm Order 2022 (Norfolk Vanguard)	S.I. 2022/138	This is an offshore wind farm which is referenced to demonstrate the long-standing precedents (where applicable) for particular drafting. This development has similar considerations with regards to constructing multi-circuit underground onshore cables and includes offshore deemed marine licences.

Order	SI Number	Comments
The Norfolk Boreas Offshore Wind Farm Order 2021 (Norfolk Boreas)	S.I. 2021/1414	This is an offshore wind farm which is referenced to demonstrate the long-standing precedents (where applicable) for particular drafting. This development has similar considerations with regards to constructing multi-circuit underground onshore cables and includes offshore deemed marine licences.
The Hornsea Three Offshore Wind Farm Order 2020 (Hornsea Three)	S.I. 2020/1615	This is an offshore wind farm which is referenced to demonstrate the long-standing precedents (where applicable) for particular drafting. This development has similar considerations with regards to constructing multi-circuit underground onshore cables and includes offshore deemed marine licences.
The Hornsea Two Offshore Wind Farm Order 2016 (Hornsea Two)	S.I. 2016/844	This offshore wind farm DCO has similar considerations with regards to being a joint DCO for two wind farm projects with overlapping work areas, construction of multi-circuit underground onshore cables and includes separate offshore deemed marine licences for each project.
Triton Knoll Electrical System Order 2016 (Triton Knoll)	S.I. 2016/880	This is a DCO for comparable offshore and onshore development. It was made following a section 35 direction and consent was secured for the offshore and onshore cable circuits and an onshore substation whilst the Triton Knoll offshore wind farm generation assets were consented in a separate DCO – The Triton Knoll Offshore Wind Farm Order 2013 (S.I 2013/1734).
Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 (Teesside A and B)	S.I. 2015/1592	This offshore wind farm DCO has similar considerations with regards to being a joint DCO for two wind farm projects where a 'centreline' approach was taken to the offshore and onshore cable corridors and included separate offshore deemed marine licences for each project.

1.6.1.3 The Order adopts the 'Rochdale Envelope' approach whereby the maximum permitted consent envelope is provided for and assessed, allowing some of the scheme detail to be approved post-consent. The approval of that detail is provided for within the Requirements in Schedule 2A Part 1 (Requirements – Project A) and Schedule 2B Part 1 (Requirements – Project B) of the Order. A marine licence is required before carrying out any licensable marine activities under the Marine and Coastal Access Act 2009 (the 2009 Act). The Order includes four marine licences which are deemed to be granted under Part four of the 2009 Act: two (one for each project) marine licences for activities wholly located in English offshore and inshore waters relating to the Morgan and Morecambe Offshore Wind Farms: Transmission Assets, which includes export cables for each project; and two (one for each project) for licensable marine activities relating to works to lay and maintain cables

beneath the tidal River Ribble. Given the works to lay cables beneath the River Ribble will be undertaken using trenchless techniques, it is not anticipated that either project would need to access or enter the river to undertake works, save in the unlikely event there is a ‘frack out’ and the River Ribble deemed marine licences have therefore been drafted on this basis.

1.6.2 Part 1 – Preliminary

Article 1 – Citation and commencement

- 1.6.2.1 Article 1 sets out the name of the Order and the date on which it comes into force.
- 1.6.2.2 This article did not appear in the Model Provisions. However, it is a standard article that is included in all development consent orders.

Article 2 – Interpretation

- 1.6.2.3 Article 2(1) defines the terms used in the Order. It is a standard article and was included in the Model Provisions as article 1.
- 1.6.2.4 Definitions to note include:
 - a. “alternative trenchless installation technique works”. This definition has been included to provide for the use of direct pipe or micro-tunnel installation methods at certain locations. Those installation methods are not considered to be covered by the standard definition of “trenchless installation technique works”.
 - b. “commence”. The definition of “commence”. distinguishes between the onshore and offshore components of the authorised project. In respect of the offshore and intertidal works (i.e. those activities licensed under licence 1 and licence 2, as defined in the Order), “commence” is defined as the first carrying out of those activities, save for specific pre-construction operations. These include pre-construction surveys, monitoring surveys, unexploded ordnance surveys, and the clearance of low order unexploded ordnance, as approved under licence 1 or licence 2. These exclusions ensure that essential preliminary works may proceed without triggering the requirement to discharge all relevant conditions, while still being subject to appropriate control under the relevant marine licences.

For all other works, “commence” is defined as the first carrying out of any material operation (as defined in section 155 of the 2008 Act), save for “onshore site preparation works” (which are separately defined in the Order). This is consistent with precedents such as Hornsea Four, and allows certain onshore works and preparatory activities to be undertaken with appropriate controls in place, without necessitating prior discharge of all requirements . The onshore site preparation works are separately controlled through and included in the relevant outline management plans, which are secured under the Order.

- c. “deemed marine licences” means licence 1, licence 2, licence 3 and licence 4, each of which is defined in the Order and set out in separate Schedules to the Order, as detailed at paragraph 1.6.1.3 above.
- d. “environmental mitigation works” means any mitigation measures required for the authorised project including ecological, landscaping, drainage and water attenuation mitigation measures and mitigation measures identified in the environmental statement or required under the requirements or conditions. This definition has been provided to clarify what is meant by reference to environmental mitigation works.
- e. “high order unexploded ordnance” and “low order unexploded ordnance” have been defined to reflect that Schedules 14 and 15 of the DCO do not provide for high order unexploded ordnance clearance, which is an unexploded ordnance clearance method which intentionally seeks to detonate the unexploded ordnance.
- f. “maintain” has been defined to make clear what is authorised under article 5 (Power to maintain the authorised project). The definition permits Project A and Project B to inspect, keep, repair, adjust, alter, remove, reconstruct, recover and replace any part of the authorised project in Schedule 1, to the extent assessed in the environmental statement. The definition applies to the onshore, intertidal and offshore works and any derivative of “maintain” is to be construed accordingly. “Order land” which means the land as shown on the Land Plan and described in the Book of Reference which is within the limits of land to be acquired or used for the Transmission Assets.
- g. “Order limits” which means the limits for the authorised project as shown on the works plans.
- h. “Project A” comprises the offshore and onshore transmission works which are required to connect the Morgan Offshore Wind Project: Generation Assets to the National Grid transmission network at Penwortham.
- i. “Project B” comprises the offshore and onshore transmission works which are required to connect the Morecambe Offshore Windfarm: Generation Assets to the National Grid transmission network at Penwortham.
- j. The “undertaker” means:
 - i. for the purposes of constructing, maintaining and operating Project A is Morgan OWL; and
 - ii. for the purposes of constructing, maintaining and operating Project B is Morecambe OWL.

1.6.2.5 The term “undertaker” is therefore defined to make clear that each company is the relevant undertaker for its own project. Article 2(2) expands the definition of rights over land in the same way as many other DCOs including Norfolk Boreas and Norfolk Vanguard, East Anglia One North, East Anglia Two, Hornsea Four and Awel y Môr. This was included in the Model Provisions as article 1(2).

- 1.6.2.6 Articles 2(3) and 2(4) define measurements as approximate. The purpose of this is to ensure that if upon construction of the works it transpires that the distances are marginally different to those listed in the Order, there is no issue over whether the Order permits the works. Thus, this provision allows for a small tolerance, although all works can only take place within the Order limits and to the extent they fall within the parameters of the Environmental Statement. It is now common practice to include such provision in development consent orders; the Model Provisions included similar wording in article 1(3) and similar wording is used in Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North, East Anglia Two and Awel y Môr.
- 1.6.2.7 Article 2(6) confirms that references to works are to the works numbered in Schedule 1.

1.6.3 **Part 2 – Principal Powers**

Article 3 – Development consent etc. granted by the Order

- 1.6.3.1 Article 3 provides the principal power to construct and operate the authorised project described in Part 1 of Schedule 1 and ancillary works described in Part 2 of Schedule 1 within the Order limits. Together the authorised project and ancillary works form the authorised project.
- 1.6.3.2 Paragraph (1) confirms that development consent is subject to the provisions of the Order, including the requirements listed in Schedule 2A and Schedule 2B and the conditions contained within the deemed marine licences for the offshore works in Schedule 14 (Marine Licence 1: Morgan Offshore Wind Project: Transmission Assets) and Schedule 15 (Marine Licence 2: Morecambe Offshore Windfarm: Transmission Assets) and the deemed marine licences for works in, on, under or over the River Ribble in Schedule 16 (Marine Licence 3: Morgan Offshore Wind Project: Transmission Assets – River Ribble) and Schedule 17 (Marine Licence 4: Morecambe Offshore Windfarm: Transmission Assets – River Ribble). This is based on article 2 of the Model Provisions, with the only substantive difference being that the draft article does not refer to consent being granted for ancillary works, which is the approach that is now taken in other offshore wind development consent orders including Hornsea Two, Teesside A and B, Hornsea Three, Norfolk Vanguard, Norfolk Boreas, East Anglia One North, East Anglia Two, Hornsea Four and Awel y Môr.
- 1.6.3.3 Paragraphs (2) and (3) of the article make the development consent for Project A and Project B conditional upon the granting of development consent for the generation assets associated with Project A or Project B (which are the subject of separate applications). This ensures that the projects are coordinated, and that Transmission Assets are not constructed without the corresponding Generation Assets. It is only required in the event the separate DCOs for the Generation Assets are not granted prior to the making of this Order and therefore the wording is included in the Order in square brackets on the basis it can be removed (as appropriate) by the

decision maker in the event the separate DCOs for the generation assets are granted prior to the making of the Order.

Article 4 – Deemed marine licence under the 2009 Act

- 1.6.3.4 Article 4 is the provision under which the marine licences in Schedules 14 to Schedule 17 are deemed granted. This is a standard provision included in all DCOs which include offshore development where marine licences are required for licensable marine activities under the MCAA.

Article 5 – Power to maintain the authorised project

- 1.6.3.5 This article provides Morgan OWL and Morecambe OWL with a general power to maintain the authorised project, subject to any contradictory provisions in the Order. This provision follows Model Provision article 3 and article 4 of Hornsea Three, article 5 in both of Norfolk Boreas and Norfolk Vanguard and article 4 in both East Anglia One North and East Anglia Two article 5 of Awel y Môr, article 4 of Hornsea Four and article 4 in the Sheringham and Dudgeon.
- 1.6.3.6 Paragraph (2) clarifies that Morgan OWL and Morecambe OWL are not relieved from the need to obtain additional marine licences for any activities that are not authorised by the deemed marine licences.

Article 6 – Benefit of the Order

- 1.6.3.7 This article allows the benefit of the Order to be transferred or leased to others by Morgan OWL or Morecambe OWL. This article is necessary to provide Morgan OWL and Morecambe OWL with the appropriate commercial freedom to sell or lease the authorised project while ensuring that the Secretary of State can control such sale or lease through the need to obtain their consent. Without the ability to transfer the benefit, no party other than Morgan OWL (in relation to Project A) or Morecambe OWL (in relation to Project B) could operate the projects without committing a criminal offence. This article is therefore necessary to ensure that the authorised project is fundable and could be sold or leased in the future.
- 1.6.3.8 Paragraphs (1) and (2) are based on article 4 of the Model Provisions, amended to clarify that they are subject to other provisions of the article and that it is Morgan OWL and Morecambe OWL that benefit from the provisions of the Order, rather than particular articles applying for the benefit of other specified parties as per the Model Provisions. The exercise of any transferred benefits or rights is therefore subject to the same restrictions, liabilities and obligations as would apply under the Order if those benefits or rights were exercised by Morgan OWL and/or Morecambe OWL. The consent of the Secretary of State is required for a transfer or grant, except where it is made to specified categories of person.

- 1.6.3.9 Paragraphs (3) and (4) were not included in the Model Provisions but equivalent provisions have been included in other offshore wind development consent orders in English waters including Norfolk Boreas, Norfolk Vanguard, East Anglia One North, East Anglia Two, Hornsea Four, Sheringham and Dudgeon, and Rampion 2. Paragraph (3) limits the transfer of the benefit of any of the deemed marine licences to a transfer or lease of the whole of the licence only, ensuring no partial transfers are permitted. Additionally, paragraph (8) requires notice to be given to the MMO prior to any transfer or grant and paragraph (4) requires the Secretary of State to consult with the MMO before giving consent to transfer the benefit of a deemed marine licence.
- 1.6.3.10 Paragraph (6) is based on article 5 of the Model Provisions. It differs in that it allows a transfer or grant to specified licence holders, such as those holding a licence under section 6 of the 1989 Act and Electricity North West (the holder of existing overhead lines) for purposes related to Work No. 39A, to take place without the Secretary of State's consent, on the basis that it is appropriate for those companies to be able to carry out those works. As these transfers are restricted to persons holding appropriate licences, such persons will already have been determined to be fit to operate such facilities. It also allows for transfer or grant of powers to any third party where the time limit for claims of compensation in respect of the acquisition of land or effects upon land as a consequence of the Order has elapsed.
- 1.6.3.11 Pursuant to paragraphs (8) to (11), prior to any transfer or grant under this article taking effect, Morgan OWL and/or Morecambe OWL must give at least 14 days' notice in writing to the Secretary of State, the other undertaker, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority. The notice must be signed by the undertaker and the person to whom the benefit is being transferred or granted and must include the name and contact details of the transferee or lessee, the date on which the transfer will take effect, the provisions to be transferred or granted, and details regarding compensation and plans showing the works or areas to which the transfer or grant relates.
- 1.6.3.12 Paragraph (12) disapplies sections 72(7) and (8) of the 2009 Act in relation to a transfer or grant of the benefit of a deemed marine licence. This is based on the Model Provisions and reflects a long-established precedent regarding the transfer of DCO powers and deemed marine licences that has been endorsed by the Secretary of State many times, including most recently in Rampion. This ensures that the transfer process under Article 6 is not subject to the separate variation procedure under the 2009 Act. Where a transfer of the deemed marine licence is sought under Article 6, the Secretary of State would consider the appropriateness of the party to whom the transfer or grant is proposed and would also take into account any representations made by the MMO before determining whether to grant consent noting, as set out above, that Article 6 includes provisions requiring notification and consultation with the MMO where a transfer or grant of the benefit of a deemed marine licence is proposed. The drafting also makes clear that the

MMO retains the power to amend any deemed marine licence granted under Schedules 14, 15, 16 or 17 of the Order to correct the name of the undertaker to that of a transferee or lessee under Article 6. This allows for administrative clarity following a permitted transfer or grant, while preserving the overall integrity of the DCO and licensing framework.

- 1.6.3.13 From the procedural perspective it is important that the DCO and any deemed marine licence can be transferred together using the process set out in Article 6. It is considered important that the timing of any transfer or grant of powers/authorisations under the DCO and a deemed marine licence be aligned, as there is considerable overlap between the authorisations and the requirements/conditions. This justifies a departure from the procedure under the MCAA. Having deemed the marine licence in the DCO, it is also appropriate that any transfer under the Order include the deemed marine licence as part of the wider transfer – it is one element of the wider order powers and should not be separated out from the authority to construct, operate and maintain the NSIP granted by the Order.
- 1.6.3.14 The 2008 Act is clear that marine licences may be deemed in a DCO in appropriate areas (s149A) and that a DCO may include such further provisions ancillary to the operation of that deemed marine licence (s122(3)), including transfer along with the benefit. Section 122(5)(a) and (c) set out that a DCO may “apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order” or “include any provision that appears to the Secretary of State to be necessary or expedient for giving full effect to any other provision of the order”. The ability to transfer a deemed marine licence is related to the deeming and it is therefore a sensible, expedient part of the wider power to transfer the benefit of the order.
- 1.6.3.15 Overall, the drafting of this article reflects the equivalent provision in recent offshore wind development consent orders including Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North, East Anglia Two, Awel y Môr, Hornsea Four, Sheringham and Dudgeon, and Rampion. As noted above, this article is necessary to provide Morgan OWL and Morecambe OWL with the appropriate commercial freedom to sell or lease the authorised project while ensuring that the Secretary of State can control such sale or lease through the need to obtain their consent.

Article 7 – Application and modification of legislative provisions

- 1.6.3.16 This article provides for the disapplication of certain requirements which would otherwise apply under public general legislation, as well as local legislation as authorised by section 120(5)(a) of the 2008 Act (what may be included in order granting development consent). Section 120(5)(a) provides that an order granting development consent may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the Order.

- 1.6.3.17 Article 7(1)(a) and (b) disapply byelaws where the carrying out of the authorised project would conflict with such byelaws.
- 1.6.3.18 Article 7(1)(c) disapplies regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016, which would ordinarily require an environmental permit for flood risk activities including works affecting sea defences. This is necessary because of the location of the authorised project. Additionally, article 7(1)(d) provides for the disapplication of consents ordinarily required in respect of sections 23 and 30 of the Land Drainage Act 1991, which relate to the prohibition on obstructions in watercourses and the authorisation of drainage works in connection with a ditch. Specifically, these are the requirements for consents for the construction of culverts, together with the requirements for approval under byelaws made under the Land Drainage Act 1991. These are consents for activities which may be a necessary part of constructing the authorised project. To provide certainty that the authorised project can proceed, the Order disapplies the requirement for a separate statutory consent to be obtained in relation to these activities. These provisions were included in Norfolk Boreas, Norfolk Vanguard and Sheringham and Dudgeon.
- 1.6.3.19 Article 7(1)(e) disapplies the provisions of the Neighbourhood Planning Act 2017 (the 2017 Act) relating to the temporary possession of land. This is on the basis that the temporary possession of land is dealt with by articles 29 and 30 and the wording of those provisions is well established. The 2017 Act provisions differ from those in the Order and are untested; as they are not yet in force, it is therefore necessary to disapply them in case they should come into force in the future. This disapplication has been included in a number of offshore generating station development consent orders including most recently Hornsea Three, Norfolk Boreas and Norfolk Vanguard, East Anglia One North and East Anglia Two, Hornsea Four and Sheringham and Dudgeon.
- 1.6.3.20 Article 7(2) modifies Regulation 6 of the Hedgerows Regulations 1997 to permit the removal of hedgerows that may be required for the construction of the authorised project.

Article 8 – Defence to proceedings in respect of statutory nuisance

- 1.6.3.21 Section 158 of the 2008 Act confers statutory authority for the purposes of a defence in civil or criminal proceedings for nuisance. This article provides a defence to proceedings brought in a magistrates' court under section 82(1) of the Environmental Protection Act 1990 (the 1990 Act) in relation to certain nuisances set out in paragraph 79(1) of that Act. The sub-paragraphs included are:
- any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;

- artificial light emitted from premises so as to be prejudicial to health or a nuisance;
- noise emitted from premises so as to be prejudicial to health or a nuisance; and
- noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road.

1.6.3.22 A broad defence to civil and criminal proceedings for nuisance is provided by section 158 of the 2008 Act. However, the view taken under the NSIP regime is that section 158 does not extend to the relatively rare situation by which if, somebody considers that the local authority ought to be tackling a nuisance using its statutory nuisance powers, but it is not, that person may apply to the magistrates' court under section 82 of the 1990 Act. Accordingly, this article is seeking to fill in a legislative gap by extending the effect of section 158.

1.6.3.23 As section 158 does not distinguish between different types of nuisance, the logical position is that this article should apply to all categories of nuisance. However, as a matter of practice other projects have been more discriminating and have considered whether there is any possibility of a statutory nuisance occurring, leading to specific types of nuisance being referred to. Morgan OWL and Morecambe OWL have followed this approach by seeking to restrict the application of this article so that it only applies to nuisances that have been identified as potentially resulting from the authorised project, as set out in the Statutory Nuisance Statement (document reference APP-237) accompanying the application. This ensures that this article is focused only on those nuisances that may be of relevance, whilst also reflecting the logic and correct interpretation of section 158.

1.6.3.24 The defence is available if the nuisance relates to:

- a. the use of premises by Morgan OWL and/or Morecambe OWL for the purposes of or in connection with the construction or maintenance of the authorised project and is attributable to the carrying out of the authorised project in accordance with a notice served, or consent given, under the Control of Pollution Act 1974; or
- b. the construction, maintenance or use of the authorised project and cannot reasonably be avoided.

1.6.3.25 It is recognised that noise will arise as a consequence of the authorised project and that provision to define its consequences in an appropriate and balanced manner will be needed. Given the mitigation measures and protections secured under the Order, it is considered appropriate and proportionate to make provision for a defence to any proceedings in respect of statutory nuisance relating to noise. This provision reflects the status of the Transmission Assets as CNP infrastructure.

1.6.3.26 This article is based on article 7 of the Model Provisions and recent orders including article 7 in each of Hornsea Three, East Anglia One North, East

Anglia Two and Hornsea Four and article 8 in Norfolk Vanguard and Norfolk Boreas. The references to section 65 of the Control of Pollution Act 1974 in the Model Provisions are omitted because that section has been repealed.

1.6.4 Part 3 Streets

Article 9 – Street works

- 1.6.4.1 Article 9 allows Morgan OWL and Morecambe OWL to interfere with and execute works in or under the streets within the Order limits for the purposes of the authorised project. The authority given by this article is a statutory right for the purposes of sections 48(3) and 51(1) of the New Roads and Street Works Act 1991 (the 1991 Act). Certain provisions of the 1991 Act apply to works carried out under this article, subject to the provisions of article 11 (Application of the 1991 Act) of the Order.
- 1.6.4.2 Article 9 is based on article 8 of the Model Provisions and is commonly included in DCOs, especially projects with a linear element, where street works are required to facilitate construction and operation of the authorised project. Inclusion of this power avoids the need to obtain separate consents for these works and reflects the status of the authorised project as CNP infrastructure.

Article 10 – Power to alter layout etc. of streets

- 1.6.4.3 Article 10 allows Morgan OWL and Morecambe OWL to alter the layout of or carry out any works in any street, subject to the restoration of such streets to the reasonable satisfaction of the street authority. The drafting is preceded in Hornsea Four.
- 1.6.4.4 This article is necessary because, to construct, operate, maintain and decommission the authorised project, Morgan OWL and Morecambe OWL will need to alter street layouts for access to minimise disruption to the local highway network.
- 1.6.4.5 The powers conferred by paragraph (1) (which is a general power enabling Morgan OWL and Morecambe OWL to alter the layout of any street) require the consent of the street authority before they can be exercised.

Article 11 – Application of the 1991 Act

- 1.6.4.6 Article 11 provides for the application of the 1991 Act. This article confirms that some of the provisions of the 1991 Act apply to the carrying out of street works under article 9, and the temporary restriction of alteration, diversion or restriction of streets under article 13. The relevant provisions are referred to in sub-paragraph 2 of the article.
- 1.6.4.7 Paragraph (4) provides that certain provisions of the 1991 Act listed in that paragraph will not apply. The disapplication of these provisions (which are designed primarily to regulate the carrying out of street works by utility

companies in respect of their apparatus) is appropriate given the scale of works proposed under the Order, the specific authorisation given for those works by the Order and the specific provisions in the Order which regulate the carrying out of the Order works.

- 1.6.4.8 Although this article was not included in the Model Provisions, there is precedent for these provisions in previous orders for example, most recently in article 9 in each of Hornsea Three, East Anglia One North, East Anglia Two and Hornsea Four and article 14 of Norfolk Vanguard and Norfolk Boreas and is required to ensure the safe and efficient management of street works. For example, the application of section 60 of the 1991 Act requires that an undertaker use best endeavours to cooperate with a street authority and other undertakers in the interests of safety, the needs of disabled people and protecting the structure and integrity of the street and apparatus in situ.

Article 12 – Temporary closure of public rights of way

- 1.6.4.9 This article allows Morgan OWL and Morecambe OWL, where it is in connection with the carrying out of the authorised project, to temporarily close, alter or divert a public right of way specified in Schedules 5A (for Project A) and 5B (for Project B) of the Order to the extent stipulated in Schedules 5A and 5B in order to safely construct the authorised project. This article is necessary to enable the construction of the authorised project, as the undertaker will need to alter street layouts for accesses in order to minimise disruption to the local highway network. Inclusion of this power avoids the need to obtain separate consents for these works and reflects the status of the Transmission Assets as CNP infrastructure. A public rights of way strategy will be submitted to the relevant local authority for approval (as part of the Code of Construction Practice) (CoCP) prior to commencement of works which will help manage any temporary closure, alteration or diversion and is secured through Requirement 8, Schedule 2A and 2B.
- 1.6.4.10 This article is not a model provision, but its wording is preceded in article 11 in each of Hornsea Three, East Anglia One North, East Anglia Two, and Hornsea Four and article 10 of Norfolk Boreas and Norfolk Vanguard.

Article 13 – Temporary restriction of use of streets

- 1.6.4.11 This article allows for the temporary alteration, diversion or restriction of streets for the purposes of authorised project, whilst ensuring that essential pedestrian access to and from premises along that street is maintained if necessary (paragraph (3)). This power is required because it is necessary to be able to restrict the use of the street in order to allow installation of the cables and other street works required to facilitate the onshore works. Closures and traffic management will also be required to facilitate the creation or improvement of junctions. Where possible and safe, closures for access junction works will be partial only and not close the full width of the carriageway. The consent of the street authority is required (under paragraph (6)(b)) to temporarily stop-up, alter or divert a street unless the street and the

extent of the stopping up, alteration or diversion is specified in Schedule 4A (streets to be temporarily stopped up – Project A) or Schedule 4B (streets to be temporarily stopped up – Project B).

- 1.6.4.12 Paragraph (2) confers a power on Morgan OWL and Morecambe OWL, where a street has been temporarily stopped up under this article, to use it as a temporary working site. It is not anticipated that any street would be used as a working site except when undertaking works affecting the carriageway itself.
- 1.6.4.13 Paragraph (6) provides for the street authority to be consulted prior to using this power on the streets specified in Schedules 4A (for Project A) and 4B (for Project B) and for approval to be obtained from the street authority prior to using this power on any other street.
- 1.6.4.14 Paragraph (7) provides a right to compensation for any person suffering loss due to the suspension of a private right of way under this article. Morgan OWL and Morecambe OWL are not aware of any private rights of way in streets however this article is retained as precautionary in the case that unidentified, extant title rights to take exist along the same lines as the current public highway.
- 1.6.4.15 Paragraph (8) states that where the street authority fails to notify Morgan OWL and/or Morecambe OWL of its decision in respect of an application for consent pursuant to paragraph (5) within 28 days of the application being made is deemed to have given its consent. This time limit is considered necessary to remove the possibility for delay and provide certainty that the authorised project can be delivered by Morgan OWL and/or Morecambe OWL in a timely fashion. As the works consented under the Order are required to connect two nationally significant infrastructure projects to the National Grid, the authorised project should not be at risk of being held up due to a failure to respond to an application for consent.
- 1.6.4.16 This provision has been included in numerous previous orders including article 10 of Hornsea Three, article 12 of East Anglia One North, East Anglia Two, and Hornsea Four and article 11 of Norfolk Vanguard and Norfolk Boreas.

Article 14 – Access to works

- 1.6.4.17 This article allows accesses, which are either specified in Schedule 6A (for Project A) or Schedule 6B (for Project B) or which are subject to the approval of the highway authority in consultation with the relevant planning authority, to be created or improved within the Order limits. It is anticipated that this article will be relied on by Morgan OWL and Morecambe OWL to provide temporary accesses as required during the construction period, with all permanent means of access (including private means of access) forming part of the authorised project.
- 1.6.4.18 This article departs from the Model Provisions (article 12) to provide Morgan OWL and Morecambe OWL with a general power to provide means of

access should that be necessary or expedient. It is required to avoid the need for a separate consent for the creation of those accesses identified and provides a deemed approval mechanism and timing for street approval for access not specified in Schedule 6A or Schedule 6B (paragraph (3)). This is preceded in previous orders including article 12 in Norfolk Boreas and Norfolk Vanguard and article 13 of East Anglia One North and East Anglia Two.

- 1.6.4.19 The inclusion of this article is considered to be appropriate as it will help to ensure that the authorised project can be carried out expeditiously by allowing Morgan OWL and Morecambe OWL to create new temporary accesses as and where required, particularly in response to requests from landowners, occupiers and other affected parties. This article also simplifies the approval procedure for creating and improving accesses, in that only one approval is required from the relevant authority.

Article 15 – Agreements with street authorities

- 1.6.4.20 This article allows street authorities and Morgan OWL and Morecambe OWL to enter into agreements relating to any temporary closure, alteration or diversion of a street authorised by the Order, or the carrying out of works in the streets referred to in Article 9 (Street works) of the Order. This article is a modified model provision, and follows the approach taken in article 13 in each of Hornsea Three and Hornsea Four, Norfolk Boreas and Norfolk Vanguard and article 14 of both East Anglia One North and East Anglia Two.

1.6.5 Part 4 – Supplemental powers

Article 16 – Discharge of water

- 1.6.5.1 This article modifies Model Provision 14 and follows article 15 of Hornsea Three and Hornsea Four. It sets out the circumstances in which Morgan OWL and Morecambe OWL are entitled to use, make openings or connections, or discharge water into any watercourse, public sewer or drain in connection with the construction and maintenance of the authorised project, and its purpose is to establish statutory authority for doing so.
- 1.6.5.2 The effect of paragraph (3) is that the discharge of water can only be done with the consent of the owner save that the article is made subject to Part 5 of the Order in which rights (including rights to discharge water) can be taken compulsorily. Consent can be given subject to reasonable terms and conditions but cannot be unreasonably withheld.
- 1.6.5.3 The effect of paragraph (4) is that Morgan OWL and Morecambe OWL can only carry out works to a public sewer or drain in accordance with plans approved by the owner, and where the owner has been given the opportunity to supervise the works.
- 1.6.5.4 Paragraph (5) secures the approval of the Environment Agency (EA) to any works potentially affecting or within 16 meters of a main river.

- 1.6.5.5 Paragraph (6) requires Morgan OWL and Morecambe OWL to take reasonably practicable steps to ensure that any water that is discharged is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.
- 1.6.5.6 Paragraph (7) updates Model Provision 14 to refer to the environmental permitting regime under the Environmental Permitting (England and Wales) Regulations 2016.

Article 17 – Authority to survey and investigate the land

- 1.6.5.7 This article gives Morgan OWL and Morecambe OWL the power to enter land shown within the Order limits or which may be affected by the authorised project for the purpose of surveying and investigating, including the ability to make trial holes and boreholes, to carry out ecological or archaeological investigations, to use and leave apparatus on the land in question and to enter onto land. It provides that Morgan OWL and Morecambe OWL must give 14 days' notice before exercising the powers of entry. Compensation is payable for any loss or damage caused. Paragraphs (1) and (3) to (5) reflect article 16 of the Model Provisions. Paragraph (2) also largely reflects the Model Provisions, but additional wording has been added to clarify that the notice to be served on landowners must include certain details where certain specified activities will be undertaken. This addition ensures that landowners are fully informed of the specific activities planned on their land. Paragraph (4) makes clear that, in addition to the restriction on making trial holes, no equipment may be placed or left on or removed from land within the highway boundary or a private street without the consent of the relevant authority. This ensures additional protection for public and private streets, while still requiring that consent must not be unreasonably withheld or delayed. This also ensures that landowners and relevant authorities are fully informed of and appropriately protected in respect of the specific activities planned on their land or within streets.
- 1.6.5.8 Paragraph (7) introduces an enforcement mechanism by applying section 13 of the Compulsory Purchase Act 1965 (the 1965 Act), which allows for issuance of a warrant where entry onto land under the article is refused. This will ensure that there is no delay in the implementation of the authorised project. Similar provisions have been included in article 17 in each of Hornsea Three, East Anglia One North, East Anglia Two and Hornsea Four, article 16 in each of Norfolk Vanguard, Norfolk Boreas and Sheringham and Dudgeon and article 15 of Awel y Môr.
- 1.6.5.9 The provision removes the need to obtain separate consent for survey and investigation of land within the Order limits or that could be affected by the authorised project and reflects the status of the authorised project as CNP infrastructure.

Article 18 – Protective work to buildings

- 1.6.5.10 The purpose of this article is to allow Morgan OWL and Morecambe OWL, at their own expense, to undertake protective works to buildings within the Order limits affected by the authorised project. It was included in the Model Provisions as article 15 and is a standard provision that is often included in DCOs.
- 1.6.5.11 Such protective works can be undertaken at any time before or during the carrying out in the vicinity of the relevant building works forming part of the authorised project. Protective works can also be undertaken after the carrying out of the works forming part of the authorised project for a period of 5 years from the day on which that part of the authorised project was first brought into operation.
- 1.6.5.12 In addition to the powers to undertake protective works, the article includes powers to enter into and survey any building within the Order limits or land within its curtilage to determine whether protective works are needed. The article also includes powers to enter adjacent land to carry out any protective works.
- 1.6.5.13 Prior to utilising the powers in article 18, Morgan OWL and Morecambe OWL must serve notice on owners and occupiers with at least 14 days' notice of the said works. In respect of some of the powers included in article 18, there is an ability for a counter notice to be served by the landowner/occupier within a period of 10 days from the day on which the notice was served.
- 1.6.5.14 The article includes compensation provisions both in relation to the consequences of the protective works being undertaken, but also where protective works are undertaken but they are inadequate to protect the building or land from damage (within a period of 5 years from the date that part of the authorised project is first brought into operation).
- 1.6.5.15 This article ensures that buildings within the Order limits are protected from any potential damage caused by the authorised project, with Morgan OWL and Morecambe OWL bearing the responsibility for both the implementation of necessary protective works and the compensation for any inadequacies in those protections.

Article 19 – Removal of human remains

- 1.6.5.16 This article requires Morgan OWL and Morecambe OWL, before it carries out any development or works which will or may disturb any human remains, to remove those remains. This article is included on a precautionary basis in case human remains are discovered while carrying out the authorised project.
- 1.6.5.17 Without this article, authorisation from the appropriate Minister would be required to remove remains, which could require the works to stop for an unspecified period and could lead to unnecessary delays. The article sets out a process of notification of the discovery of remains and for their removal and

reinternment or cremation and states that the undertaker would be required to pay reasonable expenses associated with the process. The removal of any remains is required to be carried out in accordance with any directions which may be given by the Secretary of State. Article 18 follows the Model Provision 17 and was included as article 17 in Norfolk Vanguard, Norfolk Boreas and Awel y Môr.

- 1.6.5.18 Additional provisions have been included at paragraphs (14) and (15) to address the situation where human remains over 100 years old are discovered and therefore it may not be possible to trace relatives following publication and display of a notice under paragraph (2). This drafting is preceded in the A428 Black Cat Order.

1.6.6 Part 5 – Powers of Acquisition

Article 20 – Compulsory acquisition of land

- 1.6.6.1 This article authorises the acquisition of land by compulsory purchase. It grants Morgan OWL the power to acquire land that is required for Project A, or necessary to facilitate or is incidental to the construction and maintenance of Project A and confirms that this power relates to the land identified for acquisition by Morgan OWL in the Book of Reference (document reference AS-011). It also grants Morecambe OWL the power to acquire land that is required for Project B, or necessary to facilitate or is incidental to the construction and maintenance of Project B and confirms that this power relates to the land identified for acquisition by Morgan OWL in the Book of Reference (document reference AS-011).
- 1.6.6.2 This article is subject to:
- a. article 21 (time limit for exercise of authority to acquire land compulsorily)
 - b. article 22 (compulsory acquisition of rights);
 - c. article 26 (acquisition of subsoil only);
 - d. article 29 (temporary use of land for carrying out the authorised project); and
 - e. article 39 (crown rights)
- 1.6.6.3 each of which are explained below.
- 1.6.6.4 The land identified for freehold acquisition in the Book of Reference is the land coloured pink on the Land Plan - Onshore (document reference AS-019) and comprises of land required for each project's substation (including permanent access to the substation) together with land required for environmental mitigation and biodiversity benefit. The acquisition of land is considered necessary and proportionate based on the authorised project. As set out in the Statement of Reasons (document reference AS-009) and Planning Statement (document reference APP-233), there is a critical national priority for the provision of nationally significant new offshore wind development and supporting onshore and offshore network infrastructure.

Compulsory acquisition powers have therefore been included in the Order to ensure that Project A and Project B (and therefore the Morgan Offshore Wind Project: Generation Assets and the Morecambe Offshore Windfarm: Generation Assets) which are critical national priority infrastructure can be delivered should it not be possible to reach reasonable terms, landowners default on voluntary agreements, or where unknown interests in land emerge.

- 1.6.6.5 In addition, and as set out in the Statement of Reasons (document reference AS-009), the Applicants continue to seek voluntary agreements with landowners and would only rely on powers of compulsory acquisition as a last resort.
- 1.6.6.6 This provision ensures that each of Project A and Project B can be delivered within an appropriate timescale at an appropriate cost.
- 1.6.6.7 Article 20 is based on article 18 of the Model Provisions and is well preceded in all the DCOs referred to in Table 1.1 above.

Article 21 – Time limit for exercise of authority to acquire land compulsorily

- 1.6.6.8 This article gives Morgan OWL and Morecambe OWL seven years to issue notices to treat or to execute a general vesting declaration to acquire the land that may be compulsorily acquired under the Order. These are the two main procedural methods by which the process of compulsorily acquiring land may be undertaken should the Order be made.
- 1.6.6.9 The article also sets a seven-year time limit on the power to take temporary possession of land under article 29, although it does not prevent Morgan OWL and Morecambe OWL from remaining in possession of land after that time.
- 1.6.6.10 This article was included in the Model Provisions as article 20. The article ensures that Project A and Project B can be delivered within the appropriate timescale and cost. The seven-year time limit has been included in a number of offshore wind DCOs. It was included in article 24 of Teesside A and B, in article 19 of each of Hornsea Three, Norfolk Boreas, Norfolk Vanguard East Anglia One North and East Anglia Two and article 20 of Hornsea Four and article 18 of Sheringham and Dudgeon. It is considered appropriate given the Order is linked to the delivery of two large scale offshore wind generating stations and a seven year period facilitates the ongoing collaboration between Morgan OWL and Morecambe OWL. Moreover, in the context of very high demand for suppliers of necessary equipment and services, the seven year period provides greater flexibility in securing key contracts with suppliers. For example, there is a long lead in time for equipment and other elements of the Transmission Assets. Further, the offshore wind market changes quickly and involves a number of pressures from different suppliers. The Applicants do not yet understand the particular commercial pressures they may face and require flexibility to meet the constraints of the market at the time. Additionally, there is the potential need for Morgan OWL and

Morecambe OWL to secure contract for difference awards prior to the commencement of construction of each project for which there is no guarantee of timings.

- 1.6.6.11 The seven year time limit would be subject to sub-paragraph (3) which replicates wording included in Requirement 1 of Schedule 2A and 2B and operates to extend the period by 1 year in the event proceedings are begun to challenge the validity of the grant of the DCO. This is explained further in relation to Requirement 1 below.

Article 22 – Compulsory acquisition of rights

- 1.6.6.12 This article authorises Morgan OWL and Morecambe OWL to acquire rights over land within the Order limits, either by acquiring existing rights or by creating new rights, including the power to impose restrictive covenants. This flexibility allows for a more proportionate approach to land acquisition, where outright ownership is unnecessary. It is therefore in the public interest.
- 1.6.6.13 Paragraphs (2) and (3) provide that for the land described in Schedule 8A and Schedule 8B, Morgan OWL and Morecambe's OWL respective powers of compulsory acquisition are limited to the acquisition of such rights, and the imposition of such restrictive covenants, as set out in the respective schedules. As set out in the Statement of Reasons (document reference AS-009), the Applicants have sought rights only where these have been absolutely necessary and has sought to limit those rights to those which are the least intrusive.
- 1.6.6.14 Paragraph (5) provides that where Morgan OWL and Morecambe OWL only need to acquire rights over land, they are not obliged to acquire any greater interest in that land, reducing the need for more extensive compulsory acquisition.
- 1.6.6.15 Paragraph (6) confirms that Schedule 9 has effect for the purpose of modifying compensation provisions to ensure that they apply to the compulsory acquisition, creation of rights, or imposition of restrictive covenants, under this article. This reflects the more nuanced approach to land acquisition under this Order.
- 1.6.6.16 Paragraph (7) refers to Schedule 2A of the 1965 Act, as modified by Schedule 9, rather than section 8 of the 1965 Act. The effect is to limit the possible exceptions to this article to cases where part only of a house, building, factory, park or garden belonging to a house is being acquired.
- 1.6.6.17 Paragraphs (8) and (9) set out a mechanism for the transfer of rights to statutory undertakers with the consent of the Secretary of State in circumstances where Order land is required for the diversion or relocation of their apparatus.
- 1.6.6.18 As set out above, compulsory acquisition powers have been included in the Order to ensure that Project A and Project B (and therefore the Morgan Offshore Wind Project: Generation Assets and the Morecambe Offshore

Windfarm: Generation Assets) which are CNP infrastructure can be delivered should it not be possible to reach reasonable terms, landowners default on voluntary agreements, or where unknown interests in land emerge.

- 1.6.6.19 Article 22 modifies article 21 of the Model Provisions. This approach reflects that taken in the other offshore wind DCOs including those referred to in Table 1.1 above.

Article 23 – Compulsory acquisition of land: minerals

- 1.6.6.20 This article incorporates Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981, exempting existing rights in minerals from the scope of compulsory acquisition unless they are expressly named and conveyed. It also makes provision for a situation where the owner of mines or minerals wishes to work such mines or minerals. This article safeguards the rights of mineral owners, whilst allowing Morgan OWL and Morecambe OWL to proceed with the authorised project without unintentionally acquiring existing rights in minerals. It also ensures that that the authorised project can be delivered within an appropriate timescale and cost.

Article 24 – Private rights

- 1.6.6.21 This article provides for the extinguishment of private rights over land that is subject to compulsory acquisition under the Order. Where Morgan OWL or Morecambe OWL acquire land or create new rights over land pursuant to the Order, any existing private rights over that land that would be inconsistent with those new rights or the use of the acquired will be extinguished.
- 1.6.6.22 Paragraphs (4) and (5) provide that all private rights over land taken into temporary possession by which Morgan OWL and/or Morecambe OWL under the Order will be suspended and unenforceable for as long as Morgan OWL and/or Morecambe OWL remain in lawful possession of the land.
- 1.6.6.23 Paragraphs (7) to (11) make provision for compensation and detail the circumstances under which certain rights may be preserved.
- 1.6.6.24 Paragraph (13) defines the meaning of private rights over land for the purposes of this article.
- 1.6.6.25 Article 24 is based on article 22 of the Model Provisions. Whilst it differs from the Model Provisions in certain respects as set out below, the changes mirror the approach taken in other DCOs, including article 20 of Sheringham and Dudgeon, article 21 in each of Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North and East Anglia Two and article 22 of Hornsea Four and Awel y Môr. The key differences from the Model Provisions are as follows:
- a. It applies to all private rights, not just private rights of way, reflecting the broader range of private rights that may exist over the Order land, including easements.

- b. Paragraphs (3) and (4) clarify that where land is subject to the acquisition or creation of rights or the imposition of restrictions, any other rights in that land are extinguished if their continuance would be incompatible with the right or covenant being acquired or created by Morgan OWL or Morecambe OWL.
- c. Paragraphs (5) and (6) clarify the position where Morgan OWL and/or Morecambe OWL take temporary possession of land.
- d. Paragraph (9) clarifies that, where Morgan OWL acquires rights, imposes restrictions or temporarily possesses land, the extinguishment or suspension of private rights does not apply to any interest in paragraph (9). This specific drafting is considered necessary to clarify the position in respect of the overlap areas where, depending on the construction scenario, one project may acquire an interest in land ahead of the other project.

Article 25 – Application of the 1981 Act

- 1.6.6.26 This article applies the provisions of the Compulsory Purchase (Vesting Declarations) Act 1981 (the 1981 Act) (with minor modifications to ensure consistency between the terms of the Order and the 1981 Act) to compulsory acquisition under the Order so that Morgan OWL and Morecambe OWL have the option to acquire land via the general vesting declarations procedure.
- 1.6.6.27 General vesting declarations are one of two ways of acquiring land that is subject to compulsory purchase (the other being by means of a notice to treat). They allow several parcels to be acquired at once and therefore more efficiently than under the notice to treat procedure.
- 1.6.6.28 The modifications to the 1981 Act contained in this article can be summarised as follows:
 - a. Paragraph (3) modifies section 1(2) so that section 1 applies to Morgan OWL and Morecambe OWL.
 - b. Paragraph (4) modifies section 5 to remove the reference to situations where the compulsory purchase order is subject to special parliamentary procedure.
 - c. Paragraph (5) omits section 5A, on the basis that the Order prescribes the time limit for compulsory acquisition in article 21.
 - d. Paragraph (6) modifies the statutory reference in section 5B(1), on the basis that the 2008 Act contains equivalent provisions that apply in respect of development consent orders. The cross-reference to section 5A is also modified, to reflect that the time limit is set out in article 21.
 - e. Paragraph (7) modifies the statutory references in section 6(1)(b), on the basis that the 2008 Act contains equivalent provisions that apply in respect of development consent orders.
 - f. Paragraph (9) modifies paragraph 1(2) of Schedule A1 to change the reference to compulsory purchase orders excluding land that is 9 metres or more below the surface from the counter-notice procedure.

- g. Paragraph (10) clarifies that references to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 of the 2008 Act and as modified by article 27, on the basis that both section 125 and article 27 modify the provisions of the 1965 Act.

1.6.6.29 Article 25 is based on article 23 of the Model Provisions. Due to extensive changes to the relevant provisions of the 1981 Act since the Model Provisions came into force, the wording of this article departs significantly from the Model Provisions. The drafting of this article follows article 22 in each of Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North and East Anglia Two and article 23 of Hornsea Four.

Article 26 – Acquisition of subsoil only

1.6.6.30 This article allows Morgan OWL and Morecambe OWL to acquire, or acquire or create rights in, the subsoil below land, rather than having to acquire the land itself.

1.6.6.31 The purpose of article 26 is to give Morgan OWL and Morecambe OWL the flexibility to minimise so far as is possible the extent of interests to be acquired, with consequently less impact on landowners which is in the public interest.

1.6.6.32 This article is based on article 24 of the Model Provisions.

Article 27 – Modification of Part 1 of the 1965 Act

1.6.6.33 The purpose of this article is to ensure consistency between the terms of the Order and the 1965 Act, as applied by section 125 of the 2008 Act.

Article 28 – Rights under or over streets

1.6.6.34 The purpose of this article is to allow Morgan OWL and Morecambe OWL to appropriate and use the subsoil beneath or airspace above streets within the Order limits for the purposes of the authorised project, without having to acquire the street or any associated right or easement in it. However, the exercise of this power without acquisition is restricted in certain circumstances as set out in paragraph (3), such as where subways, underground buildings, or structures like cellars and vaults that form part of adjacent buildings are involved.

1.6.6.35 Compensation is payable to any landowner or occupier who suffers loss or damage due to the appropriation of land under this article, provided that no acquisition of their interest in the land has occurred. This ensures that while Morgan OWL and Morecambe OWL can efficiently carry out the authorised project, the rights of affected landowners and occupiers are still protected.

1.6.6.36 The authorised project involves crossing streets and creating new accesses onto existing streets in several places. This article facilitates those works to be undertaken without necessitating the acquisition of land beneath or above

the streets, which is often separately held from the highway authority's interest in the street itself.

- 1.6.6.37 This article was included in the Model Provisions as article 27 and has been a standard inclusion in numerous development consent orders including in article 25 of each of Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North and East Anglia Two and article 27 of Hornsea Four.

Article 29 – Temporary use of land for carrying out the authorised project

- 1.6.6.38 This article authorises Morgan OWL and Morecambe OWL to temporarily occupy the land specified in Schedules 7A and 7B respectively for the duration of the works associated with the authorised project. This land is required during the construction phase but is not needed permanently, allowing for more efficient land use during the project. Additionally, article 29 allows for the temporary occupation of land that is intended for permanent acquisition but has not yet been acquired. Article 29 also allows for the temporary occupation of any of the land intended for permanent acquisition under articles 20 or 22 where the land or rights have not yet been acquired or created.
- 1.6.6.39 The article is based on article 28 of the Model Provisions, with a number of modifications listed below, which are designed to minimise the amount of land subject to permanent acquisition. These modifications, which are well preceded in numerous development consent orders such as article 26 of each of Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North and East Anglia Two and article 28 of Hornsea Four, include:
- a. the ability to occupy land temporarily that is subject to powers of permanent acquisition but that has not yet been acquired (paragraphs (1)(a)(ii) and 2(a)(ii)). The drafting clarifies that this applies to land identified for acquisition (including of rights in land) by Morgan or Morecambe in the book of reference (document reference AS-011). This flexibility allows Morgan OWL and Morecambe OWL to occupy land without having to acquire it immediately and provides for the ability to commence works without delay whilst still negotiating or finalising the permanent acquisition of land;
 - b. paragraphs (1)(e), (1)(g), (2)(e) and 2(g) have been added so that works specified in column (3) of Schedules 7A and 7B respectively, and any other environmental mitigation works in connection with the authorised project, may be left on land that has been temporarily occupied, rather than having to acquire such land for this purpose. This approach avoids the unnecessary permanent acquisition of land solely for these works, instead allowing for a proportionate use of the land; and
 - c. a 28 day notice period is established before Morgan OWL and/or Morecambe OWL can take temporary possession of the land, aligning with recent precedents to ensure affected parties have adequate time to prepare.

- 1.6.6.40 The inclusion of this article is crucial to ensure that the authorised project can be carried out efficiently and without undue delay following the making of the Order. By enabling the temporary use of land, Morgan OWL and Morecambe OWL can carry out the necessary works while also respecting the rights of landowners through provisions for land restoration and compensation for any loss or damage. This approach balances the need for temporary land use with the obligation to minimise permanent land acquisition, thus promoting the efficient use of resources and ensuring that the Transmission Assets proceed in a manner that is both reasonable and fair. These powers are considered to be reasonable given the status of the authorised project as CNP infrastructure.
- 1.6.6.41 Importantly, Morgan OWL and Morecambe OWL are not permitted to compulsorily acquire land or rights in land which is specifically listed in Schedules 7A (Land of which only temporary possession may be taken – Project A) or 7B (Land of which only temporary possession may be taken – Project B) as being for temporary use only. This ensures that the land identified for temporary occupation only is not inadvertently subject to permanent acquisition, maintaining the integrity of the landowners' rights.
- 1.6.6.42 Without the powers conferred by this article, Morgan OWL and Morecambe OWL would be compelled to seek permanent rights over, or the permanent acquisition of, all the land required for the authorised project, which would be disproportionate for plots identified as being suitable for temporary occupation and use. This article allows for a more balanced approach, enabling the Transmission Assets to proceed efficiently while limiting the long-term impact on landowners.

Article 30 – Temporary use of land for maintaining the authorised project

- 1.6.6.43 This article authorises Morgan OWL and Morecambe OWL to take temporary possession of land within the Order limits when necessary for maintaining the authorised project during the “maintenance period”, as defined in paragraph (11). This power is crucial for ensuring the safe and effective maintenance of the authorised project, including, for example, the creation of safe working areas around the electrical cables or for the replacement of trees, hedges and shrubs in accordance with a landscape and ecology management plan approved and implemented in accordance with the requirements.
- 1.6.6.44 Paragraph (1)(b) authorises the construction of such temporary works and buildings on the land as may be reasonably necessary for the maintenance activities. Under paragraph (5), all such temporary works must be removed before Morgan OWL or Morecambe OWL relinquishes possession of the land under this article and the land must be restored to the reasonable satisfaction of the owners.
- 1.6.6.45 Importantly, this power does not extend to houses, gardens or any other occupied buildings, as specified in paragraph (2), ensuring that residential

and occupied properties are not subject to temporary possession for maintenance purposes.

- 1.6.6.46 Paragraph (3) mandates that a minimum of 28 days' notice of intended entry is served on the owners and occupiers of the land in question before taking temporary possession, ensuring that they are adequately informed and prepared.
- 1.6.6.47 Paragraphs (6) to (8) provide for compensation to be paid to owners and occupiers for any loss or damage resulting from the temporary possession and use of their land under this article, with disputes regarding compensation to be determined under Part 1 of the 1961 Act.
- 1.6.6.48 This article, originally included in the Model Provisions as article 29, has also been adopted in various other development consent orders, including in article 27 of each of Hornsea Three, Norfolk Vanguard, Norfolk Boreas, East Anglia One North and East Anglia Two and article 29 of Hornsea Four.

Article 31 – Statutory undertakers

- 1.6.6.49 This article allows Morgan OWL and Morecambe OWL to extinguish rights of statutory undertakers and to remove and reposition their apparatus within the Order land. This article applies broadly to all apparatus within the Order land, rather than being limited to what is specifically shown on the Land Plan-Onshore (document reference AS-019) or described in the Book of Reference (document reference AS-011). This broad application is necessary because in practice it is impractical to precisely show and describe all such apparatus. Therefore, a general power for the extinguishment of rights and the removal or relocation of apparatus belonging to statutory undertakers over or within any of the Order land is required.
- 1.6.6.50 This article is based on article 31 of the Model Provisions but includes modifications to ensure that it is subject to the protective provisions in Schedule 10 (Protective provisions). These protective provisions are designed to safeguard the interests of statutory undertakers while allowing the authorised project to proceed effectively.

Article 32 – Recovery of costs of new connections

- 1.6.6.51 This article entitles owners or occupiers of premises to recover reasonable costs from Morgan OWL or Morecambe OWL if they incur expenses due to the removal of statutory undertakers' apparatus under article 31 (Statutory undertakers). Specifically, if the removal of such apparatus disrupts or halts a supply from that apparatus to their premises such that they have to seek a connection to other apparatus, the owners or occupiers can claim compensation for the costs incurred in obtaining a new supply. This article ensures that the financial burden of relocating utility connections, due to the undertaker's activities, does not fall on the affected property owners or occupiers.

- 1.6.6.52 This article was included in the Model Provisions as article 33 and has been included on a number of offshore wind farm development consent orders including article 29 of Hornsea Three, East Anglia One North and East Anglia Two and article 30 of Norfolk Boreas and Norfolk Vanguard and article 31 of Hornsea Four.

Article 33 – Funding

- 1.6.6.53 Article 33 provides that Morgan OWL and Morecambe OWL may not exercise a number of powers prior to it putting into place a guarantee or security equal to its potential liability to compensation payable under the Order, which is approved by the Secretary of State.
- 1.6.6.54 The relevant powers are article 20 (compulsory acquisition of land), article 22 (compulsory acquisition of rights), article 24 (private rights), article 26 (acquisition of subsoil only), article 28 (rights under or over streets), article 29 (temporary use of land for carrying out the authorised project), article 30 (temporary use of land for maintaining the authorised project), article 31 (statutory undertakers) and article 32 (recovery of costs of new connections).
- 1.6.6.55 This article is based on precedent in Teesside A and B, Hornsea Two, Hornsea Three, East Anglia One North, East Anglia Two, Hornsea Four, Awel y Môr and Sheringham and Dudgeon.
- 1.6.6.56 Article 33(6) and 33(7) allows Morgan OWL and Morecambe OWL respectively to demonstrate to the Secretary of State that neither a parent company guarantee, nor an alternative form of security is required because they are sufficiently funded to meet any liability to pay compensation under the Order. The inclusion of this paragraph reflects the fact that in many other DCOs, where an undertaker is considered to be sufficiently funded to meet its liabilities, there is no equivalent provision requiring a parent company guarantee or another alternative form of security to be provided by the relevant undertaker. A clear example of this are DCOs where National Highways are the undertaker and where the equivalent article is not included, see for example the A428 Black Cat Order. This approach has also been taken in Sheringham and Dudgeon.

1.6.7 Part 6 – Miscellaneous and General

Article 34 – Application of landlord and tenant law

- 1.6.7.1 This article provides that any agreement for the transfer of the benefit of the Order overrides landlord and tenant law so far as it would prejudice the operation of any agreement for leasing the whole of the authorised project or the right to operate it, or any agreement entered into by Morgan OWL or Morecambe OWL for the construction, maintenance, use or operation of the authorised project.
- 1.6.7.2 This article follows article 35 of the Model Provisions.

Article 35 – Felling or lopping of trees and removal of hedgerows

- 1.6.7.3 This article allows, subject to the restrictions in paragraph (2), any tree or shrub that is within the Order limits or near any part of the authorised project to be felled or lopped, or have its roots cut back, if it is considered necessary to prevent obstruction to the construction, operation or maintenance of the authorised project or ensure safety. Compensation is payable for any loss or damage caused. This is required to provide the undertaker with the necessary flexibility to fell, lop or cut back trees that may be encountered during construction, maintenance and operation.
- 1.6.7.4 Additionally, this article authorises the removal of any hedgerow, as defined in the Hedgerow Regulations 1997, within the Order Limits, including those not identified in Schedules 11A and 11B of the Order. It is essential for Morgan OWL and Morecambe OWL to have the power to remove hedgerows across the Order Limits to ensure that any new hedgerow planting does not obstruct or impede the construction, operation or maintenance of the authorised project. This article is based on article 39 of the Model Provisions and recent DCOs for offshore generating stations including article 34 of Hornsea Three, East Anglia One North and East Anglia Two and article 35 of Norfolk Vanguard and Norfolk Boreas and article 36 of Hornsea Four.

Article 36 – Trees subject to tree preservation orders

- 1.6.7.5 Article 36 provides that Morgan OWL and Morecambe OWL may fell, lop or cut back the roots of any tree within or encroaching upon the Order limits which is subject to a tree preservation order if necessary to prevent it from obstructing or interfering with onshore site preparation works or the construction, maintenance or operation of the authorised project. Compensation is provided for if loss or damage is caused, and the undertaker must not do any unnecessary damage to any tree. This article is necessary to provide the undertaker with the necessary flexibility to fell, lop or cut back trees subject to tree preservation orders that are encountered during construction, maintenance or operation.

Article 37 – Abatement of works abandoned or decayed

- 1.6.7.6 This article is intended to ensure that Morgan OWL and Morecambe OWL do not abandon or allow the Project A offshore works or the Project B offshore works, respectively, to fall into decay. It grants the Secretary of State the power, following consultation with Morgan OWL or Morecambe OWL (as appropriate), to serve a notice requiring Morgan OWL or Morecambe OWL, at their own expense, to remove or restore those works. Section 105 of the Energy Act 2004 (the 2004 Act) allows the Secretary of State to serve a notice requiring Morgan OWL or Morecambe OWL to submit a decommissioning programme for approval. The provisions of this article do not cut across this statutory provision but rather supplement it. This provision

follows the approach in Hornsea Four, East Anglia Two and Norfolk Vanguard.

Article 38 – Saving provisions for Trinity House

- 1.6.7.7 This is a model provision for harbours and is commonly used in DCOs for offshore wind farm turbine generating stations. It has, for example, most recently been included in Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North, East Anglia Two and Hornsea Four. It is intended to provide protection to Trinity House.

Article 39 – Crown rights

- 1.6.7.8 Article 39 is not a model provision, but it reflects the terms of section 135 of the 2008 Act and is also precedented. It has been used in many made orders, including Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North, East Anglia Two and Hornsea Four.
- 1.6.7.9 This article ensures that nothing in the Order prejudicially affects any estate, right, power, privilege, authority, or exemption of the Crown. It specifically requires the consent of the Crown Estate Commissioners or the relevant government department for any use or interference with Crown land. This safeguard is crucial for protecting Crown interests and ensuring that the undertaker's activities do not encroach on Crown land without appropriate permissions.
- 1.6.7.10 Paragraph (2) provides that the prohibition in paragraph (1) of the article does not apply where it is proposed to compulsorily acquire an interest in the Crown land which for the time being is held otherwise than by or on behalf of the Crown.

Article 40 – Protective provisions

- 1.6.7.11 This article gives effect to Schedule 10, which contains provisions protecting the interests of third parties. It was not included in the Model Provisions but is a standard article in development consent orders that include protective provisions.

Article 41 – Operational land for the purposes of the 1990 Act

- 1.6.7.12 The effect of this article is that the land within the Order limits is to be treated as the operational land of a statutory undertaker for the purposes of the Town and Country Planning Act 1990. Although section 264 of the Town and Country Planning Act 1990 is entitled “cases in which land is to be treated as not being operational land”, subsections (3) and (4) of the 1990 Act set out cases where land is to be treated as operational land.
- 1.6.7.13 This article was included in the Model Provisions as article 36. It is necessary to ensure that development is correctly classified under the Town and Country Planning Act 1990 and benefits from the appropriate permitted

development rights, which are essential for the operation of the authorised project.

Article 42 – Certification of plans and documents, etc.

- 1.6.7.14 This article provides for various application plans and documents listed in Schedule 18 to be certified by the Secretary of State as true copies of those documents following the making of the Order. This is based on article 41 of the Model Provisions. However, the list has been moved to Schedule 18 as, with the inclusion of all parts of the ES, it is of considerable length.

Article 43 – Service of notices

- 1.6.7.15 This article governs the service of notices required to be given under the Order. In particular it allows service by email with the consent of the recipient (paragraph (1)(c)) and deals with the situation of service on an unknown landowner (paragraph (4)).
- 1.6.7.16 Although this article was not included in the Model Provisions, it is a sensible addition that has been included in similar orders for example, article 44 of Hornsea Three, article 43 of Norfolk Vanguard and Norfolk Boreas and article 45 of East Anglia One North, East Anglia Two and Hornsea Four. The inclusion of this provision ensures flexibility and practicality in the service of notices.

Article 44 – No double recovery

- 1.6.7.17 This article provides that compensation is not payable both under this Order and other compensation regimes for the same loss or damage. In addition, the article provides that there is not to be double recovery under two or more different provisions of this Order.
- 1.6.7.18 This article was not provided for in the Model Provisions but has been included in granted orders, such as article 42 of Awel y Môr and article 46 of Hynet. This article simply reflects the established position that a claimant in a compulsory purchase matter shall be compensated for no more than and no less than their loss.

Article 45 – Requirements, appeals, etc.

- 1.6.7.19 This article has the effect of providing that section 78(1) of the 1990 Act applies to the discharge of requirements included in Part 2, Schedule 1 of the Order except for where those are subject to the provisions in Schedule 12.
- 1.6.7.20 This article provides for an appeal process for the refusal or non-determination of any details under a requirement or other approval specified within the Order. The details of the appeal procedure are provided in Schedule 12. It is required to ensure that subsequent applications for approval are determined appropriately. This provision is preceded in Awel y Môr.

Article 46 – Arbitration

- 1.6.7.21 This article governs any disagreement about any provision of the Order. Unless the Upper Tribunal (Lands Chamber) has jurisdiction, the matter is to be settled by arbitration. If the parties cannot agree on who the arbitrator should be then this will be decided by the Secretary of State.
- 1.6.7.22 Section 46(2) provides that no decision of the Secretary of State or the MMO is subject to arbitration. This article is also subject to article 38 (Savings provisions for Trinity House).
- 1.6.7.23 This article was included in the Model Provisions as article 42. This article departs from the Model Provisions in that it applies Schedule 13 which sets out more detailed rules and a process for arbitration in order to provide greater certainty to all parties involved in the process who may rely on this provision. A similar approach has been taken in recent DCOs including Hornsea Three, Norfolk Vanguard, Norfolk Boreas, East Anglia One North and East Anglia Two.

Article 47 – Inconsistent planning permissions

- 1.6.7.24 This article allows the development of the authorised project to take precedence over the conditions of any planning permissions which are inconsistent with the authorised project. The provision applies from the date on which the authorised project is commenced in order that the authorised project has certainty over the ability to proceed whilst not unnecessarily constraining other consents granted under the Town and Country Planning Act 1990.
- 1.6.7.25 It also provides that, where planning permission is granted in respect of land within the Order limits for development which is consistent with the authorised project, but the environmental impacts exceed those assessed in the ES, or for development which is unrelated to the authorised project, then the implementation of that consent will not render development pursuant to the Order incapable of further implementation. This wording is considered necessary in light of the Supreme Court ruling in *Hillside Park v Snowdonia National Park Authority [2020] EWCA Civ 1440* so as to allow for a discrete planning permission to be granted and implemented for part of the Transmission Assets, for which a separate environmental impact assessment has been carried out, without Morgan OWL or Morecambe OWL losing the ability to continue to construct the remainder of the authorised project.
- 1.6.7.26 The article also provides that development carried out pursuant to a planning permission following implementation of the Order would not result in breach of the Order, removing the risk of criminal liability pursuant to sections 160 and 161 of the 2008 Act in circumstances where the development which has been appropriately assessed and consented can be carried out on land within the Order limits without impact on the authorised project. This includes any development authorised by a general development order as well as an express planning permission.

- 1.6.7.27 It is based on provisions included in various other recently granted development consent orders including the Slough Multifuel DCO and the Drax Power Station DCO.

1.7 Schedules

1.7.1 Schedule 1 – Authorised Project

- 1.7.1.1 As set out in Section 1.4 above, Schedule 1, Part 1 describes the authorised development, which is described in detail in Volume 1, Chapter 3: Project Description of the Environmental Statement (document reference AS-024).
- 1.7.1.2 The Schedule is split into different work numbers for each of Project A and Project B so that it is clear for which works Morgan OWL and Morecambe OWL each have consent. Each of these work numbers represents a different part of the authorised development. This split of the authorised development between different projects and work numbers is designed to enable the Order to refer to different parts of the authorised development by citing the relevant project and work number.
- 1.7.1.3 Each project's numbered works have been separated out between “offshore works”, “intertidal works” and “onshore works”.
- 1.7.1.4 The ancillary works are set out in Part 2 of Schedule 1.

1.7.2 Schedule 2A

Requirements – Project A

- 1.7.2.1 The requirements in Schedule 2A are the equivalent of planning conditions and relate to specifically to Project A as defined in the Order. They apply to the carrying out and operation of Project A and reflect the processes and procedures usually employed by an undertaker when implementing a project such as this. Where appropriate, controls are also included in certain requirements in relation to onshore site preparation works.
- 1.7.2.2 The requirements provide that the various details and plans to be approved must, where appropriate, reflect the mitigation measures included in the ES and ensure that the development is carried out in accordance with the EIA. The requirements also provide that the approved details and plans must be implemented as approved, unless further amendments to them are approved.
- 1.7.2.3 The requirements have been drafted in line with recently approved offshore generating station DCOs including Sheringham and Dudgeon, Awel y Môr, Hornsea Four, Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia One North and East Anglia Two.
- 1.7.2.4 The purpose of splitting the Requirements for Project A in Schedule 2A and Project B in Schedule 2B is to facilitate the efficient discharge of Requirements, streamlining the process for discharging authorities and any stakeholders involved in the authorised project.

- 1.7.2.5 **Requirement 1 (Time limits)** specifies the time limit for commencing Project A as being seven years from the date on which the Order comes into force. This was included in the Model Provisions as requirement 2. A time limit of seven years follows the approach taken in the Dogger Bank Teesside A and B Offshore Wind Farm Order 2015, Hornsea Three, Hornsea Four and Sheringham and Dudgeon and (as set out above under Article 21) is considered appropriate given the complexity and scale of the authorised project, and at this stage, unknown contractor and supply chain availability.
- 1.7.2.6 The seven year time limit would be subject to sub-paragraph (2) which replicates the provisions of Section 91(3B) of the Town and Country Planning Act 1990 whereby if proceedings are begun to challenge the validity of the grant of a planning permission the period before the end of which development is required to be begun is extended by one year. This provision is not precedent in other DCOs but is considered to be appropriate to ensure that there is no risk of the DCO lapsing if challenge proceedings are drawn out.
- 1.7.2.7 **Requirement 2 (Offshore works design parameters)** sets out the maximum parameters for the Project A offshore works.
- 1.7.2.8 **Requirement 3 (Stages of authorised project)** requires Morgan OWL to submit for approval to the relevant planning authority confirmation of whether construction of the authorised project will be in one or more stages before the onshore works may start. It also prevents the construction from being carried out in more than one overall phase (sub-paragraph (4)).
- 1.7.2.9 **Requirement 4 (Substation works)** provides that Morgan OWL must obtain approval from the relevant planning authority (following consultation with the EA as appropriate) of detailed parameters for its onshore substation works. Under sub-paragraph (2), the detailed parameters must be in accordance with requirement 5 (detailed design parameters onshore) and substantially in accordance with the Outline Design Principles (document reference APP-209).
- 1.7.2.10 **Requirement 5 (Detailed design parameters onshore)** sets out the maximum parameters for the Project A onshore works with specified maximum heights for the buildings and structures required for the gas insulated onshore substation. Sub-paragraph (2) provides that trenchless installation techniques must be used where identified in the onshore crossing schedule (document references APP-026 and APP-027).
- 1.7.2.11 Paragraphs (3) to (15) relate to the areas where Project A and Project B have overlapping work areas.
- 1.7.2.12 Paragraphs (3) to (5) and (12) to (15) relate to the overlapping work areas (Work Nos. 11A/B, 12A/B, 15A/B, 51A/B, 52A/B, 53A/B and 54A/B) located at Blackpool Airport and at Blackpool Road recreation ground where there is flexibility for each project to lay its cables within the airport land and/or the recreation ground. The works descriptions allow for Morgan OWL to lay up to 4 cables through Blackpool Airport and up to 4 cables through the recreation

ground which in theory would allow Morgan OWL to lay up to 8 cables across both these areas and therefore the drafting is required to limit Morgan OWL to only 4 cables in total across these areas. The drafting ensures that there is no inadvertent duplication of parameters.

- 1.7.2.13 Paragraphs (6) to (11) relate to the overlapping areas south of the River Ribble and onwards towards Penwortham substation. Paragraph (6) ensures that no works can commence under Work Nos. 32A or 37A until Morgan OWL has submitted notification to the relevant planning authority confirming which work out of Work No. 32A and Work No. 37A they will construct in order to connect into Penwortham substation. In relation to Work Nos. 30A and 31A, paragraphs (7) and (8) provide that the total number of circuits that can be installed under those work nos. in either area is two to prevent both projects laying cables in the areas shown for Work Nos. 30A/B and 31A/B, save in the event each projects' cables are required to cross each other in those areas. Paragraph (9) limits the maximum size of construction compounds for Project A within Work No. 30A and 31A to 30,000m² to ensure no inadvertent duplication of construction compounds. Paragraphs (10) and (11) limit the total number of circuits that can be installed under Work Nos. 32A and 32B to a maximum of two and under 37A and 37B to a maximum of two. This is to prevent both projects from laying cables in the same area, as shown for Work No. 32A/B or Work No. 37A/B on the works plans.
- 1.7.2.14 **Requirement 6 (Provision of landscaping) and Requirement 7 (Implementation and maintenance of landscaping)** requires a written landscaping scheme and associated work programme to be approved by the relevant planning authority (following consultation with the EA as appropriate) before the relevant stage of the Morgan OWL onshore works may commence. The maintenance period for replacing as necessary any trees or shrubs planted in accordance with a landscaping scheme is 5 years.
- 1.7.2.15 In order to place controls on the carrying out of onshore site preparation works requirement (7)(2) provides that those works must be carried out in accordance with the applicable details set out in the outline landscape management plan.
- 1.7.2.16 **Requirement 8 (Code of Construction Practice)** provides that no stage of the Morgan OWL onshore works or intertidal works may commence until a CoCP for the relevant stage of works has been submitted to and approved by the relevant planning authority (following consultation with Lancashire County Council, Natural England, the EA and the Marine Management Organisation (MMO) as appropriate). The CoCP must cover all the matters in the Outline Code of Construction Practice (document reference APP-193) and its annexed outline management plans for the matters listed within the requirement and it must be implemented as approved.
- 1.7.2.17 In order to place controls on the carrying out of onshore site preparation works, requirement 8(4) provides that those works must be carried out in

accordance with the applicable details set out in the Outline Code of Construction Practice (document reference APP-193) (including its annexes).

- 1.7.2.18 **Requirement 9 (Traffic and transport)** prevents the commencement of any phase of the Project A onshore works until a construction traffic management plan for that phase has been submitted to and approved by the relevant highway authority in consultation with National Highways where the phase effects the strategic road network.
- 1.7.2.19 **Requirement 10 (Highway accesses)** prevents formation of new permanent means of access to a highway to be used by vehicular traffic, or any permanent alteration to an existing means of access to a highway used by vehicular traffic until written details have been submitted to and approved by the relevant planning authority in consultation with the highway authority. The highway accesses must only be constructed in accordance with the approved details.
- 1.7.2.20 In order to place controls on the carrying out of onshore site preparation works requirement 10(3) provides that those works must be carried out in accordance with the applicable details set out in the outline construction traffic management plan (document reference APP-211) and the outline highway access management plan (document reference AS-052).
- 1.7.2.21 **Requirement 11 (Onshore archaeology)** requires Morgan OWL to submit to the relevant planning authority an archaeological written scheme of investigation (WSI) for that stage of their onshore works for approval. The WSI must be in accordance with the outline onshore and intertidal written scheme of investigation as appropriate for the relevant stage. The drafting requires a WSI to be submitted and approved prior to commencement of each stage.
- 1.7.2.22 **Requirement 12 (Ecological management plan)** requires an ecological management plan to be approved by the relevant planning authority (following consultation with Natural England) before the relevant stage of the Project A onshore works may commence. The ecological management plan must be in accordance with the outline landscape and ecological management plan as well as include the matters listed within the requirement. The ecological management plan must be implemented as approved.
- 1.7.2.23 **Requirement 13 (European protected species onshore)** provides that if a Protected Species is found to be present or is likely to be affected by a stage of the Project A onshore works, then before commencing that stage, a scheme of protection and mitigation measures must be approved by the relevant planning authority (in consultation with Natural England) or an European Protected Species Licence must be obtained from Natural England. Where a scheme of protection and mitigation measures is required, each stage must be implemented in accordance with the approved scheme.
- 1.7.2.24 **Requirement 14 (Construction hours)** sets out standard construction hours for the Project A onshore construction works and construction-related traffic

movements of 07:00 to 19:00 Monday – Saturday with no activity on Sundays or bank holidays except where otherwise specified in the Requirement or agreed within the CoCP. Sub-paragraph (2) specifies the type of work that can be carried out outside of the standard construction hours. Sub-paragraphs (3) to (5) deal with the specific notification requirements in relation to works.

- 1.7.2.25 **Requirement 15 (Fencing and other means of enclosure)** requires details of all proposed permanent fencing, walls and other means of enclosure to be approved by the relevant planning authority before the relevant stage of the Project A onshore works may commence, and such permanent fencing, walls or other means of enclosure must be provided **and maintained** in accordance with the approved details until the onshore works to which they relate are decommissioned in accordance with the onshore decommissioning plan.
- 1.7.2.26 **Requirement 16 (Restoration of land used temporarily for construction)** requires land used for temporary construction of the Project A onshore works to be reinstated within 12 months following completion of the relevant stage of works in accordance with the details approved by the relevant planning authority.
- 1.7.2.27 **Requirement 17 (Control of operational artificial light emissions)** requires Morgan OWL to submit for approval to the relevant planning authority a written scheme for the management and mitigation of artificial light emissions from the Project A onshore substation before it can be brought into operation. The approved mitigation scheme must be implemented and maintained during the lifetime of the onshore substation.
- 1.7.2.28 **Requirement 18 (Control of noise during operational phase)** requires an operational noise management plan to be approved by the relevant planning authority which will provide for necessary noise attenuation and mitigation measures including placing restrictions on the noise rating level for the operation of the Project A onshore substation. The noise levels are to be measured in accordance with the relevant British Standard provided and other conditions set out in the requirement.
- 1.7.2.29 **Requirement 19 (Employment and skills plan)** provides that no stage of the Project A onshore works can commence until an employment and skills plan (substantially in accordance with the outline employment and skills plan which will cover the whole of Project A including both the generation and transmission works) has been notified to the relevant planning authority (after consultation with Lancashire County Council).
- 1.7.2.30 **Requirement 20 (Operational Drainage Management Plan)** provides that works relating to the onshore substation must not commence until an operational drainage plan is approved by Lancashire County Council (as the lead local flood authority) in consultation with the EA as appropriate. The operational drainage management plan must substantially accord with the principles set out in the outline operational drainage management plan (document reference APP-215) and must be implemented as approved.

- 1.7.2.31 **Requirement 21 (Offshore decommissioning)** provides for a written offshore decommissioning programme to be submitted to the Secretary of State prior to the commencement of the Project A offshore works and replicates the wording used in numerous offshore generating station DCOs to date including Hornsea Four, the East Anglia One North and East Anglia Two. This requirement operates in addition to the statutory requirements under the 2004 Act.
- 1.7.2.32 **Requirement 22 (Onshore decommissioning)** requires Morgan OWL to submit for approval to the relevant planning authority an onshore decommissioning plan for the Project A onshore works at least six months prior to any decommissioning works taking place. The onshore decommissioning plan must be implemented as approved.
- 1.7.2.33 **Requirement 23 (Requirement for written approval)** provides that all agreements and approvals required pursuant to the requirements in this Schedule whether given by the Secretary of State, the relevant planning authority or another person must be given in writing. This requirement replicates the wording used in Awel y Môr.
- 1.7.2.34 **Requirement 24 (Amendments to approved details)** confirms that details approved pursuant to the requirements include any amendments that may subsequently be agreed or approved. This was included in the Model Provisions as requirement 37 and replicates the wording used in Awel y Môr and Hornsea Four.

1.7.3 **Schedule 2B**

Requirements – Project B

- 1.7.3.1 The requirements in Schedule 2B for Project B are consistent with those outlined in Schedule 2A for Project A, save for instances where specific parameters differ, such as the number of cable circuits. These differences reflect the unique aspects of each project while maintaining overall consistency in approach.
- 1.7.3.2 Please see Annex 1 which contains a table setting out where Requirements differ between Project A and Project B.

Schedule 3A – Streets subject to street works – Project A

- 1.7.3.3 This Schedule lists the streets subject to street works in connection with Project A. Street works are mainly required to form new accesses, create visibility splays to allow for safe use of accesses and to improve existing visibility splays. Much of the work required will be undertaken in highway verges but occupation of some areas of carriageways may be required to create new accesses or provide safe working areas. Column (1) of the table lists the area within which the works are located. Column (2) lists the street and column (3) of the table lists the extent of the works as shown on the

street works plan (document references APP-158 and APP-159). This Schedule relates to article 9 (street works).

Schedule 3B – Streets subject to street works – Project B

- 1.7.3.4 This Schedule lists the streets subject to street works in connection with Project B. Street works are mainly required to form new accesses, create visibility splays to allow for safe use of accesses and to improve existing visibility splays. Much of the work required will be undertaken in highway verges but occupation of some areas of carriageways may be required to create new accesses or provide safe working areas. Column (1) of the table lists the area within which the works are located. Column (2) lists the street and column (3) of the table lists the extent of the works as shown on the street works plan (document references APP-158 and APP-159). This Schedule relates to article 9 (street works).

Schedule 4A – Streets to be temporarily closed or restricted – Project A

- 1.7.3.5 This Schedule lists the streets and rights of way which will be temporarily closed or restricted during construction in connection with Project A. Column (1) of the table lists the area within which the streets to be closed or restricted are located. Column (2) of the table lists the streets to be temporarily closed or restricted. Column (3) of the table lists the extent of temporary closure or restriction as shown on the street works plan (document references APP-158 and APP-159). This Schedule relates to article 13 (temporary restriction of use of streets).

Schedule 4B – Streets to be temporarily closed or restricted – Project B

- 1.7.3.6 This Schedule lists the streets and rights of way which will be temporarily closed or restricted during construction in connection with Project B. Column (1) of the table lists the area within which the streets to be closed or restricted are located. Column (2) of the table lists the streets to be temporarily closed or restricted. Column (3) of the table lists the extent of temporary closure or restriction as shown on the street works plan (document references APP-158 and APP-159). This Schedule relates to article 13 (temporary restriction of use of streets).

Schedule 5A – Public rights of way to be temporarily closed or restricted – Project A

- 1.7.3.7 This Schedule lists the public rights of way which will be temporarily closed or restricted during the carrying out of Project A. Column (1) of the table lists the area within which the public rights of way to be closed or restricted are located. Column (2) of the table lists the public rights of way to be temporarily closed or restricted. Column (3) of the table lists the extent of temporary

closure or restriction as shown on the public rights of way plan (document reference AS-020). This Schedule relates to article 12 (Temporary closure of public rights of way).

Schedule 5B – Public rights of way to be temporarily closed or restricted – Project B

- 1.7.3.8 This Schedule lists the public rights of way which will be temporarily closed or restricted during the carrying out of Project B. Column (1) of the table lists the area within which the public rights of way to be closed or restricted are located. Column (2) of the table lists the public rights of way to be temporarily closed or restricted. Column (3) of the table lists the extent of temporary closure or restriction as shown on the public rights of way plan (document reference AS-020). This Schedule relates to article 12 (Temporary closure of public rights of way).

Schedule 6A – Access to works – Project A

- 1.7.3.9 A number of accesses to works will require to be made to facilitate the carrying out of Project A. This Schedule lists the approximate locations of those accesses and where accesses will be taken from. It identifies the public highways from which access can be taken. Column (1) of the table lists the area. Column 2 lists the relevant street where access can be taken, and column (3) lists the reference as shown on the access to works plan (document reference APP-157). This Schedule relates to article 14 (Access to works).

Schedule 6B – Access to works – Project B

- 1.7.3.10 A number of accesses to works will require to be made to facilitate the carrying out of Project B. This Schedule lists the approximate locations of those accesses and where accesses will be taken from. It identifies the public highways from which access can be taken. Column (1) of the table lists the area. Column (2) lists the relevant street where access is to be taken and column (3) lists the reference as shown on the access to works plan (document reference APP-157). This Schedule relates to article 14 (Access to works).

Schedule 7A – Land of which only temporary possession may be taken – Project A

- 1.7.3.11 This Schedule lists the plots of which Morgan OWL may only take temporary possession and cannot acquire rights or ownership of the land. Column (1) of the table is the number of the plot shown on the Land Plan - Onshore (document reference AS-019). Column (2) of the table sets out the purpose for which temporary possession may be taken and column (3) identifies the relevant part of the authorised project by reference to the work numbers in

Schedule 1. The Schedule relates to article 29 (Temporary use of land for carrying out the authorised project).

Schedule 7B – Land of which only temporary possession may be taken – Project B

- 1.7.3.12 This Schedule lists the plots of which Morecambe OWL may only take temporary possession and cannot acquire rights or ownership of the land. Column (1) of the table is the number of the plot shown on the Land Plan - Onshore (document reference AS-019). Column (2) of the table sets out the purpose for which temporary possession may be taken and column 3 identifies the relevant part of the authorised project by reference to the work numbers in Schedule 1. The Schedule relates to article 29 (Temporary use of land for carrying out the authorised project).

Schedule 8A - Land in which only new rights etc. may be acquired – Project A

- 1.7.3.13 This Schedule lists the plots within which Morgan OWL may only acquire rights and cannot acquire ownership. Column (1) of the table is the number of the plot shown on the Land Plan - Onshore (document reference AS-019). The rights which Morgan OWL may acquire are set out in Column (2). The Schedule relates to article 22 (Compulsory acquisition of rights).

Schedule 8B - Land in which only new rights etc. may be acquired – Project B

- 1.7.3.14 This Schedule lists the plots within which Morecambe OWL may only acquire rights and cannot acquire ownership. Column 1 of the table is the number of the plot shown on the Land Plan - Onshore (document reference AS-019). The rights which Morecambe OWL may acquire are set out in Column (2). The Schedule relates to article 22 (Compulsory acquisition of rights).

Schedule 9 – Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictions

- 1.7.3.15 This Schedule modifies existing compensation legislation including the Land Compensation Act 1973 and the 1965 Act to provide for the acquisition of rights and imposition of restrictive covenants as well as acquisition of ownership of the land.

Schedule 10 – Protective Provisions

- 1.7.3.16 This Schedule relates to article 40 (Protective provisions) and sets out a number of protections for various bodies to ensure that the powers sought in the Order are exercised appropriately. They are for the benefit of statutory

undertakers whose equipment may be affected by the implementation of the authorised project.

- 1.7.3.17 Protections for the benefit of utilities including electricity, gas, water and sewerage undertakers are routinely included in DCOs and are set out in Part 1 of Schedule 10.
- 1.7.3.18 Protections for the benefit of electronic communication code providers and operators are routinely included in DCOs and are set out in Part 2 of Schedule 10.
- 1.7.3.19 Protections for the benefit of SABIC are included in Part 3 of Schedule 10.
- 1.7.3.20 Protections for the benefit of National Grid Electricity Transmission are included in Part 4 of Schedule 10.
- 1.7.3.21 Protections for the benefit of National Gas Transmission are included in Part 5 of Schedule 10.
- 1.7.3.22 Protections for the benefit of Cadent Gas are included in Part 6 of Schedule 10.
- 1.7.3.23 Protections for the benefit of United Utilities are included in Part 7 of Schedule 10.
- 1.7.3.24 Protections for the benefit of Network Rail are included in Part 8 of Schedule 10.
- 1.7.3.25 Protections for the benefit of the EA are included in Part 9 of Schedule 10.
- 1.7.3.26 Protections for the benefit of the Lead Local Flood Authority are included in Part 10 of Schedule 10. It is noted that the County Council as Highway Authority will cover issues of the authorised project which affect highway drainage.
- 1.7.3.27 Protections for the benefit of the Canal and River Trust are included in Part 11 of Schedule 10.
- 1.7.3.28 Protections for the benefit of SP Manweb are included in Part 12 of Schedule 10.

Schedule 11A – Removal of hedgerows – Project A

- 1.7.3.29 This schedule sets out the lengths of hedgerows which may be interfered with or removed under the Order to deliver Project A. Part 1 of Schedule 11A concerns the removal of hedgerows by Morgan OWL, whilst Part 2 concerns the removal of important hedgerows by Morgan OWL. Column (1) of each table lists the area within which the hedgerows and important hedgerows are located. Column (2) of each table details the identifier as shown on the tree and hedgerow protected tree plan. The Schedule relates to article 35 (Felling or lopping of trees and removal of hedgerows).

Schedule 11B – Removal of hedgerows – Project B

- 1.7.3.30 This schedule sets out the lengths of hedgerows which may be interfered with or removed under the Order to deliver Project B. Part 1 of Schedule 11B concerns the removal of hedgerows by Morecambe OWL, whilst Part 2 concerns the removal of important hedgerows by Morecambe OWL. Column (1) of each table lists the area within which the hedgerows and important hedgerows are located. Column (2) of each table details the identifier as shown on the tree and hedgerow protected tree plan. The Schedule relates to article 35 (Felling or lopping of trees and removal of hedgerows).

Schedule 12 – Approval of matters specified in requirements

- 1.7.3.31 This Schedule sets out a procedure for the approval of matters under the requirements and any appeals related thereto. This schedule relates to article 46 (Arbitration).
- 1.7.3.32 Paragraph 3 of the Schedule states that where an application has been made to the relevant discharging authority for any agreement or approval required, the relevant authority must give notice to the undertaker of their decision within eight weeks the day immediately following that on which the application was received or, if further information has been requested, eight weeks from when the further information has been provided, or any further period agreed in writing between the parties. The discharging authority must provide its reasons for that decision when they provide the notice of their decision.
- 1.7.3.33 Paragraph 4 provides that a discharging authority can request further information from the undertaker if it considers necessary to determine an application to discharge a requirement.
- 1.7.3.34 Paragraph 5 provides that any consultee who receives a consultation must respond to that request within 10 working days from receipt, unless a consultee requests further information, then they must respond to the consultation within 10 working days from the receipt of the further information.
- 1.7.3.35 Paragraph 6 provides that where an application relating to a requirement is made, the requisite fee for the discharge of conditions should be paid by the undertaker to the relevant planning authority.
- 1.7.3.36 Paragraph 7 sets out the circumstances in which an applicant who has submitted an application to a discharging authority may appeal to the Secretary of State including where the discharging authority grants such an application subject to conditions and the discharging authority refuses an application for any consent. The remaining sub-paragraphs set out the appeals procedure.
- 1.7.3.37 This procedure follows that set out in recent energy DCOs including Awel y Môr and Hornsea Four.

Schedule 13 – Arbitration Rules

- 1.7.3.38 This Schedule relates to article 46 (Arbitration) and provides an arbitration process. It is considered that this approach will provide greater certainty to all parties involved in the process and is preferential to the approach adopted in the Model Provisions. This was preceded in *Awel y Môr* and *Hornsea Four*. The intention of the drafting is to achieve fair, impartial, final and binding award on substantive differences between the parties within 4 months from the date an arbitrator is appointed in accordance with article 46 of the Order.
- 1.7.3.39 Paragraph 3 of Schedule 13 sets out the timetable for the arbitration as follows:
- a. Within 15 days of the arbitrator being appointed, the claimant will provide both the respondent and arbitrator with a written statement of claim and all statement of evidence;
 - b. Within 15 days of receipt of the claimant's statements by the arbitrator and respondent, the respondent will provide the claimant and the arbitrator with a written statement of defence responding to the claimant's statement of claim, its statement in respect of the nature of the difference, all supporting statements of evidence and any objections it wishes to make to the claimant's statements; and
 - c. Within 5 days of receipt of the respondent's statements by the arbitrator and claimant, the claimant may provide the respondent and the arbitrator with a written statement responding to the respondent's submissions, all supporting statements of evidence, any expert report in response to the respondent's submissions, any objections to the statements of evidence and its written submissions in response to the legal and factual issues involved.
- 1.7.3.40 Paragraph 4 sets out the procedure for any arbitration carried out under Schedule 13 and paragraph 5 details the role and powers of the arbitrator. Paragraph 6 provides that the costs of the arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonably legal and other costs incurred by the parties. The arbitrator will award recoverable costs on the general principle that each party should bear its own costs but may depart from this principle where it considers that a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it. Paragraph 7 provides that any hearings held, and documentation produced in the carrying out of arbitration under Schedule 13 are to be confidential and will only be publicly disclosed where required by law or with the agreement of both parties.

Schedule 14 – Marine Licence 1: Morgan Offshore Wind Project: Transmission Assets

- 1.7.3.41 Schedule 14 includes the marine licence for the Morgan Offshore Wind Project: Transmission Assets which is deemed to be granted pursuant to article 4(1). A standard structure has been developed by previous applications for development consent for offshore wind farms which has been followed in this Schedule as well. The licence is deliberately drafted such that it can be read independently of the rest of the Order and follows the approach taken on numerous offshore generating station DCOs including most recently Hornsea Three, Norfolk Vanguard, Norfolk Boreas, East Anglia One North, East Anglia Two and Hornsea Four.

Part 1 – Licensed Marine Activities

- 1.7.3.42 Paragraph 1 (Interpretation) provides interpretation of certain words and phrases and key terms used in the licence. Many of which are identical to the main Order or have been amended to make sense in the offshore only context.
- 1.7.3.43 Paragraphs 2 to 4 (Details of licensed activities) sets out a description of the licensed activities by reference to the relevant Work Nos. in Schedule 1 of the main Order. It provides details of the licensable marine activities as they relate to the offshore and intertidal elements of Project A. It replicates the description of the authorised project in Schedule 1 of the Order (referred to as the authorised scheme in the deemed marine licence), and it also describes the substances and objects that may be disposed of as part of the authorised scheme.
- 1.7.3.44 Paragraph 5 sets out the grid coordinates for the authorised scheme for those works within the deemed marine licence.
- 1.7.3.45 Paragraph 6 confirms the deemed marine licence will remain in force until the authorised scheme has been decommissioned.
- 1.7.3.46 Paragraph 7 confirms that section 72(7) and (8) (variation, suspension, revocation and transfer) of the MCAA does not apply to a transfer of the deemed marine licences falling within article 6 (Benefit of the Order). Section 72(7) permits the licensing authority to transfer a marine licence to another person. Section 72(8) provides that "a licence may not be transferred except in accordance with subsection 7". Article 6 (Benefit of the Order) however provides for a transfer to take place in a different way to section 72(7). Since article 6 is different from the precise wording of section 72(7) of the MCAA it is necessary to specify that section 72(7) only applies to a transfer not falling within article 6 in order to enable article 6 to operate. Without specifying this, article 6 might be claimed to be inoperative because of adopting a different wording from section 72(7).
- 1.7.3.47 Paragraph 8 confirms that where any condition requires the licensed activities be carried out in accordance with the plans, protocols or statements

approved under the licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved by the MMO.

- 1.7.3.48 Paragraph 9 further confirms that any amendments to approved details must be in accordance with the principles and assessments set out in the ES and that approval by the MMO of any amendment or variation may only be given where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the ES.

Part 2 – Conditions

- 1.7.3.49 Condition 10 (Design parameters) specifies the design parameters associated with the works comprised within the authorised scheme relevant to the deemed marine licence. This largely replicates the design parameters in the requirements. Column (1) of Table 6 provides details of the parameters. Column (2) of Table 6 provides the value.
- 1.7.3.50 Condition 11 (Maintenance of the authorised scheme) provides that Morgan OWL may maintain the authorised scheme except where the deemed marine licence provides otherwise and sets out what maintenance works are. No maintenance works can take place until an operations and maintenance plan has been approved by the MMO. The operations and maintenance plan must be submitted to the MMO in writing at least four months prior to commencement of the operation of licenced activities. The operations and maintenance plan must be provided for review and resubmission every three years during the operational phase.
- 1.7.3.51 Condition 12 (Stages of construction) provides for the submission to the MMO for approval, six months prior to the commencement of licensed activities, of a written scheme setting out the stages of construction of the authorised scheme seaward of MHWS. The authorised scheme must not be constructed in more than one overall phase.
- 1.7.3.52 Condition 13 (Extension of time periods) confirms that any time periods given in the licence may be extended with the agreement of the other party, but that such agreement cannot be withheld or delayed.
- 1.7.3.53 Condition 14 (Notifications and inspections) provides for a system of supplying copies of the licence and other notices to agents and contractors, restricting the use of contractors and vessels to those notified to the MMO and where appropriate the Maritime and Coastguard Agency (MCA), Trinity House, United Kingdom Hydrographic Office and/or the Kingfisher Information Service of Seafish, mariners and regional fisheries contacts and publicising commencement and progress of the licensed activities.
- 1.7.3.54 Condition 15 (Aids to navigation) provide for various matters to aid navigation in the vicinity of the authorised project, including the provision of various navigation aids; the ongoing availability of the aids to navigation; and

notification of the progress of works to Trinity House and the MMO and a procedure to be followed where an aid to navigation fails.

- 1.7.3.55 Condition 16 (Chemicals, drilling and debris) restricts the use of chemicals and other substances and provides for the disposal of certain drilling arisings and the monitoring of construction materials so as to identify those which may accidentally fall into the sea, which shall then be investigated and, where identified, recovered. This provision also deals with how Morgan OWL is to deal with any oil, fuel or chemical spills. It sets the standards that must be met by the undertaker in relation to the chemicals and other substances that can be used, ensuring that all materials are suitable for the marine environment.
- 1.7.3.56 Condition 17 (Force majeure) provides for the notification of deposits made in an emergency within or outside of the Order limits.
- 1.7.3.57 Condition 18 (Pre-construction plans and documentation) provides for the submission for approval, before the commencement of licensed activities, of a design plan showing the proposed location, dimensions and choice of foundation of all elements of the authorised project to ensure that the licensed activities conform with the description of the works and the design parameters specified within the conditions. It also provides for submission for approval of the following:
- a design plan;
 - an aids to navigation management plan;
 - a construction programme;
 - a monitoring plan;
 - a construction method statement including details of cable specification and installation and monitoring, cable protection management, contractors, associated ancillary works and guard vessels to be employed;
 - an offshore environmental management plan including details of marine pollution contingency plan, a chemical risk assessment, waste management and disposal arrangements, fisheries liaison officer, a fisheries liaison and coexistence plan, measures to minimise disturbance to marine mammals and rafting birds from vessels and measures to minimise the potential spread of invasive non-native species;
 - an offshore written scheme of investigation for archaeology and protocol for archaeological discoveries; and
 - a vessel traffic management plan.
- 1.7.3.58 Many of the outline or in principle versions of these schemes and plans are being submitted with the Application and the versions of these documents that are submitted for approval will need to be in accordance with the outline or in principle plan or scheme.

- 1.7.3.59 Condition 19 provides that the pre-commencement plans and documents must be submitted for approval at least four months before the intended commencement of licensed activities unless otherwise agreed with the MMO. The MMO must determine an application for approval made under this condition within a period of four months commencing on the date the application is received by MMO, unless otherwise agreed in writing with Morgan OWL.
- 1.7.3.60 Condition 20 (Low order unexploded ordnance clearance) requires the submission and approval of a method statement and a marine mammal mitigation protocol (MMMP) before any low order unexploded ordnance clearance activities are undertaken. The use of the defined term 'low order unexploded ordnance' and the clarification at Condition 20(8) clearly establishes that high order unexploded ordnance clearance is not permitted under the licence. It also specifies the maximum number of low order unexploded ordnance clearances authorised by each licence.
- 1.7.3.61 The method statement must include methodologies for the identification and investigation of potential unexploded ordnance targets, clearance of low order unexploded ordnance, removal and disposal of large debris, a plan showing the proposed clearance area, a programme of works, and any exclusion zones or micro siting requirements. The MMMP must be prepared in accordance with the outline MMMP and follow current best practice to prevent injury to marine mammals.
- The MMMP and the method statement must be submitted to the MMO at least three months prior to the clearance activities commencing. In respect of the MMMP, the MMO must consult with the relevant statutory nature conservation body, and in respect of the method statement, both the relevant statutory nature conservation body and the MCA. The MMO must determine any application for approval within four months, unless otherwise agreed with the undertaker. All low order unexploded ordnance clearance must be undertaken in accordance with the approved documents.
- 1.7.3.62 Condition 21 is not used.
- 1.7.3.63 Condition 22 (Offshore safety management) states that no part of the authorised project may commence until the MMO has confirmed that Morgan OWL has taken into account and adequately addressed all MCA recommendations as appropriate contained within MGN654 and its annexes.
- 1.7.3.64 Condition 23 (Reporting of engaged agents, contractors and vessels) requires Morgan OWL to provide to the MMO details of agents and contractors engaged to carry out the licensed activities no less than 24 hours before the commencement of the licensed marine activity, and a weekly update as to which vessels are being used during construction. The notification must include the master's name, vessel type, vessel IMO number and the vessel owner or operating company.
- 1.7.3.65 Condition 24 (Pre-construction monitoring and surveys) specifies the manner in which Morgan OWL shall discharge its obligation under Condition 18 to put

forward proposals for pre-construction surveys/monitoring and provides an indicative list of the expected pre-construction surveys. The survey proposals must be in general accordance with the principles set out in the offshore in-principle monitoring plan and must specify each survey's objectives. The baseline report proposals must ensure that the outcome of the agreed surveys are drawn together to prevent a valid statement of the pre-construction position. The pre-construction surveys must have regard to the need to undertake a swath-bathymetry survey. The undertaker must carry out all the surveys specified within the monitoring plan.

- 1.7.3.66 Condition 25 (Construction monitoring) specifies the manner in which the Morgan OWL shall discharge its obligation under Condition 18 to put forward proposals for construction surveys/monitoring. Monitoring proposals must specify each monitoring proposal's objectives.
- 1.7.3.67 Condition 26 (Post-construction monitoring) specifies the manner in which the Morgan OWL shall discharge its obligation under Condition 18 to put forward and carry out its proposals for post-construction surveys/monitoring and provides an indicative list of the expected post-construction surveys. It also requires Morgan OWL to carry out additional monitoring in the event any report submitted to the MMO under this Condition identifies a need for additional monitoring. Post-construction monitoring methodologies, timings, proposed format and content must be submitted for approval in writing to the licensing authority. Each proposal should explain how it will assist in informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of the key predictions in the ES.
- 1.7.3.68 Condition 27 (Reporting cable protection) provides for Morgan OWL to give details of the location and volume of cable protection within four months following completion of construction of the authorised scheme. The report should include the location and volume of the cable protection.
- 1.7.3.69 Condition 28 (Completion of construction) requires the submission of a close out report (confirming the date of completion of construction and final as built details of the installed cables as appropriate) to the MMO, MCA, UKHO and the relevant statutory nature conservation bodies within four months of completion of construction. The condition prohibits construction activities following completion of construction. The close-out report must include as built plans and the latitude and longitude coordinates of cables.
- 1.7.3.70 Condition 29 (Requirement for written approval) requires any agreement or approvals given by the MMO in relation to the conditions to be given in writing.

Schedule 15 – Marine Licence 2: Morecambe Offshore Windfarm: Transmission Assets

- 1.7.3.71 Schedule 15 includes the deemed marine licence for the Morecambe Offshore Windfarm: Transmission Assets which is deemed to be granted pursuant to Article 4(1). As with Schedule 14, it follows the standard

structure that has been developed by previous applications for development consent for offshore wind farms and is deliberately drafted such that it can be read independently of the rest of the Order.

1.7.3.72 The conditions in this deemed marine licence are consistent with those outlined in Schedule 14 for Project A, save for instances where specific parameters differ, such as the number of cable circuits. These differences reflect the unique aspects of each project while maintaining overall consistency in approach.

1.7.3.73 Please see Annex 2 which contains a table setting out where the offshore and intertidal deemed marine licences differ between Project A and Project B.

Schedule 16 – Marine Licence 3: Morgan Offshore Wind Project Transmission Assets – River Ribble

1.7.3.74 Schedule 16 includes the deemed marine licence for the tidal River Ribble crossing works for Morgan OWL which is deemed to be granted pursuant to Article 4(1). As with Schedule 14, it is deliberately drafted such that it can be read independently of the rest of the Order.

Part 1 – Licensed Marine Activities

1.7.3.75 Paragraph 1 (Interpretation) provides interpretation of certain words, phrases and key terms used in the licence. Many of which are identical to the main Order or have been amended to make sense in the context of the River Ribble crossing.

1.7.3.76 Paragraphs 2 to 3 (Details of licensed marine activities) sets out a description of the licensed activities by reference to Work Nos. 28A (which describes the works to be undertaken between MHWS on either side of the riverbank) together with the further associated development relating to Work No.28A.

1.7.3.77 Paragraph 5 sets out the grid coordinates for the authorised scheme (Work No. 28A).

1.7.3.78 Paragraph 6 confirms the deemed marine licence will remain in force until the authorised scheme has been decommissioned.

1.7.3.79 Paragraph 7 confirms that section 72(7) and (8) (variation, suspension, revocation and transfer) of the MCAA do not apply to a transfer of the deemed marine licences falling within article 6 (Benefit of the Order). Section 72(7) permits the licensing authority to transfer a marine licence to another person. Section 72(8) provides that "a licence may not be transferred except in accordance with subsection 7". Article 6 (Benefit of the Order) however provides for a transfer to take place in a different way to section 72(7). Since article 6 is different from the precise wording of section 72(7) of the MCAA it is necessary to specify that section 72(7) only applies to a transfer not falling within article 6 in order to enable article 6 to operate. Without specifying this,

article 6 might be claimed to be inoperative because of adopting a different wording from section 72(7).

- 1.7.3.80 Paragraph 8 confirms that where any condition requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under the licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved by the MMO.
- 1.7.3.81 Paragraph 9 further confirms that any amendments to approved details must be in accordance with the principles and assessments set out in the ES and that approval by the MMO of any amendment or variation may only be given where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the ES.

Part 2 – Conditions

- 1.7.3.82 Condition 10 (Maintenance and Operation of the authorised scheme) provides that Morgan OWL may maintain the authorised scheme except where the deemed marine licence provides otherwise.
- 1.7.3.83 Condition 11 (Extension of time periods) confirms that any time periods given in the licence may be extended with the agreement of the other party, but that such agreement cannot be unreasonably withheld or delayed.
- 1.7.3.84 Condition 12 (Notifications and inspections) provides for a system of supplying copies of the licence and other notices to agents and contractors, restricting the use of contractors and vessels to those notified to the MMO and publicising commencement and progress of the licensed activities.
- 1.7.3.85 Condition 13 (Reporting of engaged agents, contractors and vessels) requires Morgan OWL to provide to the MMO details of agents and contractors engaged to carry out the licensed activities no less than 24 hours before the commencement of the licensed marine activity, and a weekly update as to which vessels are being used during construction. The notification must include the master's name, vessel type, vessel IMO number and the vessel owner or operating company.
- 1.7.3.86 Condition 14 (Chemicals, drilling and debris) restricts the use of chemicals and other substances. This provision also deals with how Morgan OWL is to deal with any oil, fuel or chemical spills. It sets the standards that must be met by the undertaker in relation to the chemicals and other substances that can be used, ensuring that all materials are suitable for the marine environment.
- 1.7.3.87 Condition 15 (Force majeure) provides for the notification of deposits made in an emergency within or outside of the Order limits.
- 1.7.3.88 Condition 16 (Pre-construction plans and documentation) provides for the submission for approval of a construction programme and submission of a

copy of the CoCP approved under requirement 8 of the Order in connection with Work No. 28A.

- 1.7.3.89 Condition 17 provides that the pre-commencement plans and documents must be submitted for approval at least four months before the intended commencement of licensed activities, unless otherwise agreed with the MMO. The MMO must determine an application for approval made under this condition within a period of four months commencing on the date the application is received by MMO, unless otherwise agreed in writing with Morgan OWL.
- 1.7.3.90 Condition 18 (Completion of construction) requires the submission of a close out report to the MMO, MCA, UKHO and the relevant statutory nature conservation bodies within four months of completion of construction. The condition prohibits construction activities following completion of construction. The close-out report must include as built plans and the latitude and longitude coordinates of cables.
- 1.7.3.91 Condition 19 (Requirement for written approval) requires any agreement or approvals given by the MMO in relation to the conditions to be given in writing.

Schedule 17 – Marine Licence 4: Morecambe Offshore Windfarm Transmission Assets – River Ribble

- 1.7.3.92 Schedule 17 includes the deemed marine licence for the tidal River Ribble crossing works for Morecambe OWL which is deemed to be granted pursuant to Article 4(1). As with Schedule 15, it is deliberately drafted such that it can be read independently of the rest of the Order.
- 1.7.3.93 The conditions in this deemed marine licence are consistent with those outlined in Schedule 16 for Project A, save for instances where specific parameters differ, such as the number of cable circuits. These differences reflect the unique aspects of each project while maintaining overall consistency in approach.
- 1.7.3.94 Please see Annex 3 which contains a table setting out where the River Ribble deemed marine licences differ between Project A and Project B.

Schedule 18 – Documents to be certified

- 1.7.3.95 This schedule lists the documents and plans to be certified under article 42 (Certification of plans and documents) by the Secretary of State as true copies of those documents following the making of the Order.

ANNEX 1

REQUIREMENTS – TABLE OF DIVERGENCE

The table below outlines the specific requirements for Project A and Project B, as set out in Schedules 2A and 2B of the Order, highlighting where these requirements either align or diverge. This comparison demonstrates the flexibility built into the Order, which allows Project A and Project B to proceed independently, concurrently, or sequentially, as dictated by the needs and timelines of each project.

No	Requirement	Project A	Project B
1	Time limits	No divergence in drafting between projects.	
2	Offshore works design parameters	Maximum number of cable circuits: 4	Maximum number of cable circuits: 2
		Maximum total length of cables (export) (km): 400	Maximum total length of cables (export) (km): 84
		Maximum number of cable crossings: 45	Maximum number of cable crossings: 6
		Maximum total area of cable protection (m ²): 465,500	Maximum total area of cable protection (m ²): 111,000
		Maximum total volume of cable protection (m ³): 490,100	Maximum total volume of cable protection (m ³): 106,440
3	Stages of authorised project	No divergence in drafting between projects.	
4	Substation works	No divergence in drafting between projects.	
5	Detailed design parameters onshore	Highest part of any building must not exceed 15m above finished ground level	Highest part of any building must not exceed 13m above finished ground level
		Highest part of any external electrical equipment, excluding lightning rods, must not exceed 15m above finished ground level	Highest part of any external electrical equipment, excluding lightning rods, must not exceed 12m above finished ground level
		Total area of the fenced compound (excluding its accesses) must not exceed 80,000m ²	Total area of the fenced compound (excluding its accesses) must not exceed 29,700m ²
		Total number of lightning rods within the fenced compound area must not exceed 14	Total number of lightning rods within the fenced compound area must not exceed 8
		Height of any lightning rod must not exceed 30m above finished ground level.	Height of any lightning rod must not exceed 30m above finished ground level.

No	Requirement	Project A	Project B
6	Provision of landscaping	No divergence in drafting between projects.	
7	Implementation and maintenance of landscaping	No divergence in drafting between projects.	
8	Code of construction practice	No divergence in drafting between projects.	
9	Traffic and Transport	No divergence in drafting between projects.	
10	Highway accesses	No divergence in drafting between projects.	
11	Onshore archaeology	No divergence in drafting between projects.	
12	Ecological management plan	No divergence in drafting between projects.	
13	European protected species onshore	No divergence in drafting between projects.	
14	Construction hours	No divergence in drafting between projects.	
15	Fencing and other means of enclosure	No divergence in drafting between projects.	
16	Restoration of land used temporarily for construction	No divergence in drafting between projects.	
17	Control of operational artificial light emissions	No divergence in drafting between projects.	
18	Control of noise during operational stage	No divergence in drafting between projects.	
19	Employment and skills plan	No divergence in drafting between projects.	
20	Operational Drainage Management Plan	No divergence in drafting between projects.	
21	Offshore decommissioning	No divergence in drafting between projects.	
22	Onshore decommissioning	No divergence in drafting between projects.	
23	Requirement for written approval	No divergence in drafting between projects.	
24	Amendments to approved details	No divergence in drafting between projects.	

ANNEX 2

OFFSHORE AND INTERTIDAL DEEMED MARINE LICENCES – TABLES OF DIVERGENCE

The table below outlines the specific conditions for the Project A and Project B offshore and intertidal deemed marine licences, highlighting where these conditions either align or diverge. This comparison demonstrates the flexibility built into the Order, which allows Project A and Project B to proceed independently, concurrently, or sequentially, as dictated by the needs and timelines of each project.

No	Condition	Project A	Project B
1	Interpretation	No divergence in drafting between projects.	
2	Details of licensed marine activities	No divergence in drafting between projects.	
3	Licensed activities	No divergence in drafting between projects.	
4	Substances and objects authorised for deposit	No divergence in drafting between projects.	
5	Indicative Extent of Marine Licences and Grid Co-ordinates	Coordinates specific to Project A (set out in Table 5 of the DML).	Coordinates specific to Project B (set out in Table 7 of the DML).
6	Licence duration	No divergence in drafting between projects.	
7	Variation, suspension, revocation and transfer	No divergence in drafting between projects.	
8	Approval of plans and documents	No divergence in drafting between projects.	
9	Amendments to approved details	No divergence in drafting between projects.	
10	Design parameters	Maximum number of cable circuits: 4	Maximum number of cable circuits: 2
		Maximum total length of cables (export) (km): 400	Maximum total length of cables (export) (km): 84
		Maximum number of cable crossings: 45	Maximum number of cable crossings: 6
		Maximum total area of cable protection (m ²): 465,500	Maximum total area of cable protection (m ²): 111,000
		Maximum total volume of cable protection (m ³): 490,100	Maximum total volume of cable protection (m ³): 106,440
11	Maintenance of the authorised scheme	No divergence in drafting between projects.	

No	Condition	Project A	Project B
12	Stages of construction	No divergence in drafting between projects.	
13	Extension of time periods	No divergence in drafting between projects.	
14	Notifications and inspections	No divergence in drafting between projects.	
15	Aids to navigation	No divergence in drafting between projects.	
16	Chemicals, drilling, and debris	No divergence in drafting between projects.	
17	Force majeure	No divergence in drafting between projects.	
18	Pre-construction plans and documentation	No divergence in drafting between projects.	
19	Approval of pre-construction plans and documentation	No divergence in drafting between projects.	
20	Low order unexploded ordnance clearance	Total number of low order unexploded ordnance clearances authorised by this licence: 22	Total number of low order unexploded ordnance clearances authorised by this licence: 3
21	Not used	N/A	
22	Offshore safety management	No divergence in drafting between projects.	
23	Reporting of engaged agents, contractors, and vessels	No divergence in drafting between projects.	
24	Pre-construction monitoring and surveys	No divergence in drafting between projects.	
25	Construction monitoring	No divergence in drafting between projects.	
26	Post-construction monitoring	No divergence in drafting between projects.	
27	Reporting cable protection	No divergence in drafting between projects.	
28	Completion of construction	No divergence in drafting between projects.	
29	Requirement for written approval	No divergence in drafting between projects.	

ANNEX 3

RIVER RIBBLE DEEMED MARINE LICENCES – TABLE OF DIVERGENCE

The table below outlines the specific conditions for the Project A and Project B River Ribble deemed marine licences, highlighting where these conditions either align or diverge. This comparison demonstrates the flexibility built into the Order, which allows Project A and Project B to proceed independently, concurrently, or sequentially, as dictated by the needs and timelines of each project.

No	Condition	Project A	Project B
1	Interpretation	No divergence in drafting between projects.	
2	Details of licensed marine activities	No divergence in drafting between projects.	
3	Licensed activities	No divergence in drafting between projects.	
4	Associated development	No divergence in drafting between projects.	
5	Coordinates	Coordinates specific to Project A (set out in Table 9 of the River Ribble DML).	Coordinates specific to Project B (set out in Table 10 of the River Ribble DML).
6	Licence duration	No divergence in drafting between projects.	
7	Variation, suspension, revocation, and transfer	No divergence in drafting between projects.	
8	Approval of plans and documents	No divergence in drafting between projects.	
9	Amendments to approved details	No divergence in drafting between projects.	
10	Maintenance and Operation of the authorised scheme	No divergence in drafting between projects.	
11	Extension of time periods	No divergence in drafting between projects.	
12	Notifications and inspections	No divergence in drafting between projects.	
13	Reporting of engaged agents, contractors, and vessels	No divergence in drafting between projects.	

No	Condition	Project A	Project B
14	Chemicals, drilling, and debris	No divergence in drafting between projects.	
15	Force majeure	No divergence in drafting between projects.	
16	Pre-construction plans and documentation	No divergence in drafting between projects.	
17	Approval of pre-construction plans and documentation	No divergence in drafting between projects.	
18	Completion of construction	No divergence in drafting between projects.	
19	Requirement for written approval	No divergence in drafting between projects.	