



MORGAN AND MORECAMBE OFFSHORE WIND FARMS: TRANSMISSION ASSETS

Annex 2.8 to Applicants' Response to Deadline 4 submissions from Statutory Consultee and other organisation: Blackpool Borough Council King's Counsel Opinion



Deadline: Deadline 5
Application Reference: EN020028

Document Numbers:
MRCNS-J3303-BGS-19233
MOR001-FLO-CON-ENV-NOT-0078

Document Reference: S_D5_2.8

22 September 2025
F01

Document status					
Version	Purpose of document	Approved by	Date	Approved by	Date
F01	Deadline 5	GL	September 2025	IM	September 2025

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Glossary

Term	Meaning
400 kV grid connection cables	Cables that will connect the proposed onshore substations to the existing National Grid Penwortham substation.
400 kV grid connection cable corridor	The corridor within which the 400 kV grid connection cables will be located.
Applicants	Morgan Offshore Wind Limited (Morgan OWL) and Morecambe Offshore Windfarm Ltd (Morecambe OWL).
Biodiversity benefit	<p>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.</p> <p>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.</p>
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 the ES.
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.
Design envelope	A description of the range of possible elements and parameters that make up the Transmission Assets options under consideration, as set out in detail in Volume 1, Chapter 3: Project Description. This envelope is used to define the Transmission Assets for EIA purposes when the exact engineering parameters are not yet known. This is also referred to as the Maximum Design Scenario or Rochdale Envelope approach.
Development Consent Order	An order made under the Planning Act 2008, as amended, 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.
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.

Term	Meaning
Environmental Statement	The document presenting the results of the Environmental Impact Assessment process.
Evidence Plan Process	A voluntary consultation process with specialist stakeholders to agree the approach to, and information to support, the EIA and Habitats Regulations Assessment processes for certain topics.
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.
Intertidal area	The area between Mean High Water Springs and Mean Low Water Springs.
Intertidal Infrastructure Area	The temporary and permanent areas between MLWS and MHWS.
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.
Local Highway Authority	A body responsible for the public highways in a particular area of England and Wales, as defined in the Highways Act 1980.
Main rivers	The term used to describe a watercourse designated as a Main River under the Water Resources Act 1991 and shown on the Main River Map. These are usually larger rivers or streams and are managed by the Environment Agency.
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 height of mean high water during spring tides in a year.
Mean Low Water Springs	The height of mean low water during spring tides in a year.
Micro-tunnel / micro-tunnelling	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.
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.

Term	Meaning
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 owned by Copenhagen Infrastructure Partners' (CIP) fifth flagship fund, Copenhagen Infrastructure V (CI V).
Morgan and Morecambe Offshore Wind Farms: Transmission Assets	<p>The offshore export cables, landfall, and onshore infrastructure for the Morgan Offshore Wind Project and the Morecambe Offshore Windfarm. 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.</p> <p>Also referred to in this report as the Transmission Assets, for ease of reading.</p>
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 JERA Nex bp (JNbp) 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 and Net Zero in 2023 and adopted in 2024.
Offshore booster station	A fixed structure located along the offshore export cable route, containing electrical equipment to ensure bulk wind farm capacity can be fully transmitted to the onshore substations.
Offshore substation platform(s)	A fixed structure located within the wind farm sites, containing electrical equipment to aggregate the power from the wind turbine generators and convert it into a more suitable form for export to shore.
Offshore export cables	The cables which would bring electricity from the Generation Assets to the landfall.
Offshore export cable corridor	The corridor within which the offshore export cables will be located.
Offshore Permanent Infrastructure Area	The area within the Transmission Assets Offshore Order Limits (up to MLWS) where the permanent offshore electrical infrastructure (i.e. offshore export cables) will be located.
Offshore Order Limits	See Transmission Assets Order Limits: Offshore (below).
Offshore substation platform(s)	A fixed structure located within the wind farm sites, containing electrical equipment to aggregate the power from the wind turbine generators and convert it into a more suitable form for export to shore.
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 Infrastructure Area	The area within the Transmission Assets Order Limits landward of MHWS. Comprising the offshore export cable corridor from MHWS to

Term	Meaning
	the transition joint bay, onshore export cable corridor, onshore substations and 400 kV grid connection cable corridor, and associated temporary and permanent infrastructure including temporary and permanent compound areas and accesses. Those parts of the Transmission Assets Order Limits proposed only for ecological mitigation and/or biodiversity benefit are excluded from this area.
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.
Preliminary Environmental Information Report	A report that provides preliminary environmental information in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. This is information that enables consultees to understand the likely significant environmental effects of a project, and which helps to inform consultation responses.
Renewable energy	Energy from a source that is not depleted when used, such as wind or solar power.
Scour protection	Protective materials to avoid sediment being eroded away from the base of the foundations due to the flow of water.
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 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).
Transmission Assets Order Limits	The area within which all components of the Transmission Assets will be located, including areas required on a temporary basis during construction and/or decommissioning (such as construction compounds).
Transmission Assets Order Limits: Offshore	<p>The area within which all components of the Transmission Assets seaward of Mean Low Water Springs will be located, including areas required on a temporary basis during construction and/or decommissioning.</p> <p>Also referred to in this report as the Offshore Order Limits, for ease of reading.</p>
Transmission Assets Order Limits: Onshore	<p>The area within which all components of the Transmission Assets landward of Mean High Water Springs will be located, including areas required on a temporary basis during construction and/or decommissioning (such as construction compounds).</p> <p>Also referred to in this report as the Onshore Order Limits, for ease of reading.</p>

Acronyms

Acronym	Meaning
AIS	Air Insulated Switchgear
AOD	Above Ordnance Datum
BCA	Bilateral Grid Connection Agreement
CoCP	Code of Construction Practice
CoT	Project Commitment
CBRA	Cable Burial Risk Assessment
CfD	Contracts for Difference
CMS	Construction Method Statement
CSIP	Cable Specification and Installation Plan
CTMP	Construction Traffic Management Plan
DCO	Development Consent Order
DECC	Department of Energy and Climate Change
Defra	Department for Environment, Food and Rural Affairs
DESNZ	Department for Energy Security & Net Zero
dML	Deemed Marine Licence
EnBW	Energie Baden-Württemberg AG
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
EPP	Evidence Plan Process
ES	Environmental Statement
EWG	Expert Working Group
GIS	Gas Insulated Switchgear
HDD	Horizontal Directional Drilling
HGV	Heavy goods vehicle
HNDR	Holistic Network Design Review
HVAC	High Voltage Alternating Current
IALA	International Association of Marine Aids to Navigation and Lighthouse Authorities
IAQM	Institute of Air Quality Management
LAT	Lowest Astronomical Tide
MCA	Maritime and Coastguard Agency
MCZ	Marine Conservation Zone
MDS	Maximum Design Scenario

Acronym	Meaning
MHWS	Mean High Water Springs
MLWS	Mean Low Water Springs
MMO	Marine Management Organisation
MPS	Marine Policy Statement
MTBM	Mini (or micro) tunnel boring machine
NGESO	National Grid Electricity System Operator
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
O&M	Operation and Maintenance
OSP	Offshore Substation Platform
OTNR	Offshore Transmission Network Review
PDE	Project Design Envelope
PEIR	Preliminary Environmental Information Report
PPP	Pollution Prevention Plan
PRoW	Public rights of way
SAC	Special Areas of Conservation
SAR	Search and Rescue
SPA	Special Protection Area
SNCBs	Statutory Nature Conservation Bodies
SSSI	Sit of Special Scientific Interest
SWMP	Site Waste Management Plan
TEP	Technical Engagement Plan
TJB	Transition Joint Bay
UK	United Kingdom
UXO	Unexploded Ordnance
WSI	Written scheme of investigation

Units

Unit	Description
%	Percentage
dB	Decibels
Kg	Kilogram
kHz	Kilohertz

Unit	Description
KJ	Kilojoules
km	Kilometres
km ²	Kilometres squared
kV	Kilovolt
m	Metres
m ²	Metres squared
m ³	Metres cubed
nm	Nautical mile
μPa	micropascal

1 Introduction

- 1.1.1.1 The Applicants set out below their response to the King's Counsel Opinion ("the Opinion") submitted as part of Blackpool Borough Council's (the Council) Deadline 4 submission (REP4-140). The Opinion relates to the temporary possession powers sought over land at the Starr Gate access to the beach.
- 1.1.1.2 As noted in the Opinion, the relevant land plots (02-007, 02-008, 02-009, 02-010, 02-011 and 02-012 ("the Starr Gate plots")) are included in Schedules 7A and 7B of the draft DCO (REP4-007) and are therefore plots to which Article 29 of the draft DCO applies.
- 1.1.1.3 The Opinion advises that as those plots are subject to temporary possession powers under Article 29 of the draft DCO, the Applicants would have the power to exercise full and exclusive occupation of those plots, albeit for a temporary period. It is argued that exclusive temporary possession is not justified or reasonably required for those plots as it exceeds the purposes for which the Starr Gate plots are required. Further, the Opinion states that, as a result, the Applicants cannot demonstrate that the extent of the powers sought are proportionate to the intended purposes or that there is a compelling case in the public interest for the extent of the powers sought.

2 Applicants' response to the Opinion

2.1 Does inclusion of the Starr Gate plots in Schedules 7A and 7B result in full and exclusive occupation of those plots?

- 2.1.1.1 The Applicants disagree with the Opinion in this regard and maintain that inclusion of the Starr Gate plots in Schedules 7A and 7B of the draft DCO (REP4-007) does not result in the ability for the Applicants to take full and exclusive occupation of those plots. Whilst it is acknowledged that the Starr Gate plots are included in Schedules 7A and 7B and are therefore plots to which Article 29 to the draft DCO applies, these rights are subject to the wider DCO provisions and supporting documentation which restrict the broader powers exercisable under Article 29.
- 2.1.1.2 As a starting point, the temporary possession powers sought under the draft DCO must be read in the context of the overarching development consent which would be granted in the event the Order is made.
- 2.1.1.3 Article 29 makes clear that temporary possession powers can only be used 'in connection with the carrying out of Project A' under Article 29(1) or 'in connection with Project B' under Article 29(2). Project A and Project B are defined in Article 2, by reference to the authorised works set out in Schedule 1 of the draft DCO.
- 2.1.1.4 Article 3 grants development consent for the works described in Schedule 1 which make up Project A and Project B. The authorised

works for the Starr Gate plots fall under Work Nos. 19A and 19B, which are the work numbers applicable to the Applicants' temporary construction accesses along the cable corridor route.

- 2.1.1.5 Whilst Work No. 19A and 19B include the potential to undertake works involving the creation and improvement of temporary access to the highway and temporary works to visibility splays, Article 3 makes clear that that consent for these works is subject to the requirements and other provisions of the draft DCO. In relation to Starr Gate, the requirements and other provisions of the draft DCO clearly limit and restrict the authorised works at Starr Gate to temporary access by light vehicles only, meaning that the Applicant would not have the powers to exercise full and exclusive occupation of the Starr Gate plots.
- 2.1.1.6 Where construction access is taken from the highway at Starr Gate, the use of that access will be subject to the detailed construction traffic management plan (CTMP) which includes specific provision in relation to Starr Gate. The Council, as the relevant Highway Authority for Starr Gate, will be the approving body for the CTMP covering Starr Gate. This is secured by requirement 9 of Schedules 2A and 2B of the draft DCO. The Applicants amended the outline Construction Traffic Management Plan (oCTMP) at deadlines 2 and 4 following discussions with the Council to make clear how Starr Gate will be used (specifically that it is needed for low-tide vessels to be launched during construction activities to facilitate installation of the landfall and that access to the beach in the event of emergencies would also be required) and to identify appropriate controls on this use. This makes clear, as previously confirmed (and as noted in the Council's submission), that use of Starr Gate will be infrequent, and access will not in any circumstance be taken over these plots by Heavy Goods Vehicles. The measures committed to at Starr Gate will be carried into the detailed CTMP for Starr Gate as the detailed CTMP must accord with the oCTMP (REP4-056) and the Council, as discharging body, will be able to ensure this.
- 2.1.1.7 To provide further reassurance to the Council that the development consent does not include highway works or any interference with public rights of way at Starr Gate, the Applicants have already removed Starr Gate from Schedules 3A and 3B (Street Works), 4A and 4B (Streets to be temporarily closed or restricted) and Schedules 5A and 5B (public rights of way to be temporarily closed or restricted) of the draft DCO (C1/F07). These amendments were made in acknowledgement of the Council's submission to Q5.1.1 of the Examining Authority's Written Questions. The Applicants have also removed Starr Gate from Schedule 6A and 6B (Access to Works) at Deadline 5 in response to ExQ2.16.1.1 (see S_D5_5).
- 2.1.1.8 Following continued discussions, the Applicants have further agreed to amend Work No. 19A in Schedule 1 of the draft DCO (C1/F07) at Deadline 5 as follows:
- Work No. 19A – Morgan construction access which (excluding access at Starr Gate/Squires Gate Lane) includes (where required) —

(a) creation of and improvement of temporary access to the highway;
and

(b) temporary works *to visibility splays*

- 2.1.1.9 The same amendments are made to Work No. 19B in Schedule 1 of the draft DCO (C1/F07).
- 2.1.1.10 Therefore, when Articles 29(1) and 29(2) state that temporary possession powers can only be used in connection with Project A or Project B as appropriate, for the Starr Gate plots this means the powers of temporary possession can only be used to the extent required for access, which will be set out in the detailed CTMP for Starr Gate as explained above.
- 2.1.1.11 Under Articles 29(1)(a)(i) and 29(2)(a)(i), the ability to take temporary possession of land at Starr Gate is further clearly limited by the purpose set out in Schedules 7A and 7B for the Starr Gate plots. This means the Applicants cannot exercise powers of temporary possession otherwise than for the purpose stated in Schedules 7A and 7B. The Applicants also updated Schedules 7A and 7B of the draft DCO (C1/F07) at Deadline 4 to confirm and make clear that the temporary possession powers for the Starr Gate plots can be exercised solely in relation to access.
- 2.1.1.12 As already explained above, given the overarching development consent for the authorised works is granted subject to the requirements, the Applicants must also ensure that any use of the Starr Gate plots for access (whether or not access rights are secured through temporary possession powers or voluntarily) accords with the controls contained in the relevant management plans secured through the requirements in Schedules 2A and 2B, in particular for Starr Gate the detailed CTMP to be approved under Requirement 9 of Schedules 2A and 2B by the Council. To provide the Council with the comfort that this is explicitly clear on the face of the DCO in the context of the use of temporary possession powers, the Applicants have updated the wording at Schedules 7A and 7B of the draft DCO (C1/F07) at Deadline 5 to specify that the use of Starr Gate under Article 29 is for access and that such use must accord with the CTMP to be approved under Requirement 9 of Schedules 2A and 2B of the draft DCO (C1/F07).
- 2.1.1.13 Importantly, in relation to the potential for exclusive possession of the Starr Gate plots, the Applicants also highlight that Article 29 must be read alongside Article 24 (Private Rights) of the draft DCO (REP4-007). Specifically, paragraphs (5) and (6) of Article 24 state that where powers of temporary possession are relied upon, those powers only suspend private rights or restrictions over land where the continuance of those private rights or restrictions would be inconsistent with the purpose for which temporary possession is taken. In the case of the Starr Gate plots, there would be no such suspension of others' rights or restrictions because the use by others would not be incompatible or conflict with the way in which Starr Gate will be used by the Applicants as set out in Schedules 7A and 7B and as committed to through the

oCTMP (REP4-056) and secured by Requirement 9 of Schedules 2A and 2B of the draft DCO (C1/F07).

- 2.1.1.14 For clarity and the avoidance of doubt, whilst Article 29(1)(b) to (g) and Article 29(2)(b) to (g) specify other works or activities that may be undertaken on land where temporary possession powers are exercised, none of those works or activities apply to the Starr Gate plots because the draft DCO (C1/F07) does not grant development consent to undertake such works or activities at Starr Gate and those works or activities do not fall within the purpose specified in Schedules 7A and 7B.
- 2.1.1.15 The Applicants consider that the drafting of Articles 24, 29 and Schedules 7A and 7B is clear and reasonable. When read together and alongside the other provisions of the draft DCO (including the updates made at Deadline 5) (C1/F07), it is clear that appropriate restrictions and limitations are placed on the temporary possession powers provided to the undertakers under Article 29 in order that the Applicants will not be able to exercise any form of exclusive possession, and both the drafting and the Applicants approach to temporary possession, including for access, are well preceded in other DCOs.

2.2 Should the Starr Gate plots be removed from Schedules 7A and 7B?

- 2.2.1.1 Even though the use of Starr Gate is limited to non-exclusive access, the Applicants maintain that this does not mean the plots can be entirely removed from the draft DCO. As explained in detail above and as indicated on the Works Plans – Onshore and Intertidal (REP3-007), the Applicants require the ability to take access over these plots during the construction period. The Applicants must therefore retain the ability to draw down temporary possession powers in respect of these plots, in order to facilitate such access.
- 2.2.1.2 The Applicants would emphasise their preference for voluntary agreements in relation to the plots which are privately owned, however in line with standard practice the Applicants must retain the ability to draw down the necessary access powers through the DCO in case such a voluntary agreement cannot be reached. This is a well preceded approach to the use of compulsory acquisition and temporary possession powers in DCOs and aligns to the approach the Applicants have taken across the entire Order limits. To ensure delivery of both projects, the development consent for the works must be underpinned by compulsory acquisition and temporary possession powers.

2.3 Is there a compelling case in the public interest to include temporary possession powers for the Starr Gate plots?

- 2.3.1.1 The Applicants reiterate the point that the Article 29 powers cannot be read in isolation as explained in detail above. On that basis, the

Applicants refute the claims that the temporary possession powers sought exceed the purposes for which the Starr Gate plots are required. The Applicants maintain that, as set out in the Statement of Reasons (REP4-016) and the Planning Statement (REP1-032) along with the Applicants' response to the Examining Authority's Written Question Q5.1.1 (REP3-056), that they have clearly satisfied the statutory tests for compulsory acquisition. Taken in the round (and reading the DCO as a whole in conjunction with the secured requirements and management plans), the Applicants' approach to seeking temporary powers over the Starr Gate plots will not exclude other users or lead to the closure of the access. They are therefore entirely appropriate and justified.