



# MORGAN AND MORECAMBE OFFSHORE WIND FARMS: TRANSMISSION ASSETS

**Without prejudice benthic compensation DCO schedule**



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**This draft is provided on a without prejudice basis. the Applicants’ position is that there is no significant risk to the achievement of the conservation objectives of the Fylde MCZ, and that benthic compensation is not required.**

This drafting is provided in a form that allows a new article and new schedule to be inserted as a schedule into the draft DCO, if required.

Without prejudice article:

### **Benthic Compensation**

X. Schedule X (benthic compensation) has effect

Without prejudice schedule:

## **SCHEDULE X**

Article X

### **Benthic Compensation**

#### **PART 1**

#### **Fylde Marine Conservation Zone MEEB– Project A**

**1. In this Part —**

“BCSG” means Benthic Compensation Steering Group;

“BIMP” means the benthic implementation and monitoring plan for the delivery of measures to compensate for impacts on the Fylde Marine Conservation Zone as a result of the authorised development;

“bivalve seeding measure” means the means the seeding of bivalves in coastal waters outside or within the Fylde MCZ;

“Defra” means the Department for Environment, Food and Rural Affairs;

“Fylde MCZ” means the site designated as the Fylde Marine Conservation Zone;

“Fylde MCZ MEEB” means the bivalve seeding measure, the native oyster bed creation measure or the subtidal seagrass bed creation measure, or such other MEEB as is agreed by the Secretary of State;

“MEEB” means measures of equivalent environmental benefit, as that term is used in section 126(7)(c) of the 2009 Act;

“Marine Recovery Fund” means the fund operated by Defra pursuant to the Offshore Wind Environmental Improvement Package of the British Energy Security Strategy (April 2022), the Energy Act 2023 or any subordinate legislation made pursuant thereto, for the implementation of strategic compensation or any equivalent fund established for that purpose;

“Marine Recovery Fund Payment” means a contribution to the Marine Recovery Fund to compensate for impacts on protected features of the Fylde MCZ, the sum of which will be calculated in accordance with any guidance issued by Defra or otherwise to be agreed with the Secretary of State;

“native oyster bed creation measure” means the seeding of a native oyster bed waters outside the Fylde MCZ; and

“subtidal seagrass bed creation measure” means the planting of seagrass beds in coastal waters outside the Fylde MCZ;

**2. No Project A offshore works within the Fylde MCZ are to commence until Morgan has confirmed in writing to the Secretary of State whether it will—**

- (a) make a Marine Recovery Fund Payment; or
- (b) submit a BIMP to the Secretary of State for approval.

3. Where Morgan has confirmed that it will make a payment to the Marine Recovery Fund in accordance with sub-paragraph 2(a) there may be no installation of cable protection within the Fylde MCZ unless and until the Marine Recovery Fund payment has been quantified and such payment has been made, and following such payment Morgan will not be required to implement any further MEEB for benthic impacts to the Fylde MCZ pursuant to this Part 1 of Schedule X.

4.—(1) Where Morgan elects to submit a BIMP in accordance with sub-paragraph 2(b), Morgan will form and administer the BCSG. Morgan will invite representatives from the following organisations to participate in the BCSG;

- (a) Marine Management Organisation; and
- (b) Natural England.

(2) The BCSG must be convened and consulted on the proposed BIMP before any approval of the BIMP is sought by Morgan under this paragraph.

(3) Any BIMP submitted under this paragraph must include—

- (a) details of the locations where the Fylde MCZ MEEB will be delivered, and details of any relevant seabed agreement(s);
- (b) details of the methodology for delivering the Fylde MCZ MEEB;
- (c) an implementation timetable for the delivery of the Fylde MCZ MEEB;
- (d) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative MEEB and/or adaptive management measures;
- (e) a plan for reporting to the BCSG on the implementation of the BIMP, and consulting the BCSG on the details of any proposed adaptive management measures and/or amendments to the BIMP.

(4) Where a BIMP is required under sub-paragraph 2(b), Morgan must carry out the Fylde MCZ MEEB in the BIMP as approved by the Secretary of State unless otherwise agreed by the Secretary of State following consultation with the relevant statutory nature conservation body.

5. Morgan must notify the Secretary of State of implementation of the Fylde MCZ MEEB.

6. The details approved under paragraph 4 include any amendments that may subsequently be approved in writing by the Secretary of State.

7. In the event of any conflict between the terms of this Order and the BIMP then the provisions of this Order prevail.

## PART 2

### Fylde Marine Conservation Zone MEEB— Project B

8. In this Part —

“BCSG” means Benthic Compensation Steering Group;

“BIMP” means the benthic implementation and monitoring plan for the delivery of measures to compensate for impacts on the Fylde Marine Conservation Zone as a result of the authorised development;

“bivalve seeding measure” means the means the seeding of bivalves in coastal waters outside or within the Fylde MCZ;

“Fylde MCZ” means the site designated as the Fylde Marine Conservation Zone;

“Fylde MCZ MEEB” means the bivalve seeding measure, the native oyster bed creation measure or the subtidal seagrass bed creation measure, or such other MEEBas is agreed by the Secretary of State;

“MEEB” means measures of equivalent environmental benefit, as that term is used in section 126(7)(c) of the 2009 Act;

“Marine Recovery Fund” means the fund operated by Defra pursuant to the Offshore Wind Environmental Improvement Package of the British Energy Security Strategy (April 2022), the Energy Act 2023 or any subordinate legislation made pursuant thereto, for the implementation of strategic compensation or any equivalent fund established for that purpose;

“Marine Recovery Fund Payment” means a contribution to the Marine Recovery Fund to compensate for impacts on protected features of the Fylde MCZ, the sum of which will be calculated in accordance with any guidance issued by Defra or otherwise to be agreed with the Secretary of State;

“native oyster bed creation measure” means the seeding of a native oyster bed waters outside the Fylde MCZ; and

“subtidal seagrass bed creation measure” means the planting of seagrass beds in coastal waters outside the Fylde MCZ;

**9.** No Project B offshore works within the Fylde MCZ are to commence until Morecambe has confirmed in writing to the Secretary of State whether it will—

- (a) make a Marine Recovery Fund Payment; or
- (b) submit a BIMP to the Secretary of State for approval.

**10.** Where Morecambe has confirmed that it will make a payment to the Marine Recovery Fund in accordance with sub-paragraph 9(a) there may be no installation of cable protection within the Fylde MCZ unless and until the Marine Recovery Fund payment has been quantified and such payment has been made, and following such payment Morecambe will not be required to implement any further MEEB for benthic impacts to the Fylde MCZ pursuant to this Part 2 of Schedule X.

**11.—(1)** Where Morecambe elects to submit a BIMP in accordance with sub-paragraph 9(b), Morecambe will form and administer the BCSG. Morecambe will invite representatives from the following organisations to participate in the BCSG;

- (a) Marine Management Organisation; and
- (b) Natural England.

(2) The BCSG must be convened and consulted on the proposed BIMP before any approval of the BIMP is sought by Morecambe under this paragraph.

(3) Any BIMP submitted under this paragraph must include—

- (a) details of the locations where the Fylde MCZ MEEB will be delivered, and details of any relevant seabed agreement(s);
- (b) details of the methodology for delivering the Fylde MCZ MEEB;
- (c) an implementation timetable for the delivery of the Fylde MCZ MEEB;
- (d) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the mechanism to determine the need for any alternative MEEB and/or adaptive management measures;
- (e) a plan for reporting to the BCSG on the implementation of the BIMP, and consulting the BCSG on the details of any proposed adaptive management measures and/or amendments to the BIMP.

(4) Where a BIMP is required under sub-paragraph 9(b), Morecambe must carry out the Fylde MCZ MEEB in the BIMP as approved by the Secretary of State unless otherwise agreed by the Secretary of State following consultation with the relevant statutory nature conservation body.

**12.**Morecambe must notify the Secretary of State of implementation of the Fylde MCZ MEEB.

**13.**The details approved under paragraph 11 include any amendments that may subsequently be approved in writing by the Secretary of State.

**14.**In the event of any conflict between the terms of this Order and the BIMP then the provisions of this Order prevail.